

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

July 7, 2009

7:00 p.m.

Present at the 7:00 p.m. meeting were:

Chairman: James Bowman

Commissioners Present: Ralph Begleiter
Peggy Brown
Angela Dressel
Mary Lou McDowell
Rob Osborne
Kass Sheedy

Staff Present: Roy H. Lopata, Planning and Development Director

Chairman James Bowman called the Planning Commission meeting to order at 7:00 p.m.

1. THE MINUTES OF THE JUNE 2, 2009 PLANNING COMMISSION MEETING.

MOTION BY OSBORNE, SECONDED BY DRESSEL, THE MINUTES OF THE JUNE 2, 2009 PLANNING COMMISSION MEETING WERE APPROVED AS RECEIVED.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, BROWN, DRESSEL, McDOWELL, OSBORNE, SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

2. REVIEW AND CONSIDERATION OF THE 2010-2014 CAPITAL IMPROVEMENTS PROGRAM.

[Secretary's Note: Mr. Sonnenberg, Mr. McFarland, the Commissioners and public referred to visuals brought by the Finance Department for the presentation to the Planning Commission].

Mr. Kyle Sonnenberg: This is basically what we are going to cover tonight. The goals of our Capital Improvements Program (CIP), the planning process we have gone through to create it, what the budget is for the upcoming year, and then the projection for out years through 2014.

Our goal is to maintain and enhance the City's physical infrastructure. This includes items such as our streets, parks, parking facilities, and municipal facilities. Likewise, we are concerned about maintaining and enhancing our utility infrastructure, electric, water and sewer. The CIP also supports provision of services through funding of public safety improvements, fleet additions, information technology, and waste disposal. We also want to ensure that we have financial strength via prudent investments and to consider environmental sustainability.

This is the planning process that we have gone through. Our departments worked to prepare estimates and specifications. Finance prepared the financial forecast, which I should add that it is changing monthly to some degree with the economy.

Mr. Lopata: Not in a good way.

Mr. Sonnenberg: Not in a good way, no.

We got some direction from the Council. We have reviewed the proposals submitted by the departments. Our next step is to present our proposed CIP to the Planning Commission and the public hearing with Council action in August.

This is a summary comparing the CIP from the current year versus what is being proposed for next year by fund and department. It also shows where we propose to get the financial resources to pay for the proposed program.

This is simply a breakdown showing the relative amounts Capital expenditures by departments. You can see there is a significant investment in Public Works, which includes our streets that are in great need of better maintenance than they have received in the past.

This simply shows, again, the relative importance of the various funding resources. As you can see we have a significant reliance on current resources. The City really does not use much in the way of bond funds to fund the CIP unlike other municipalities.

This is a comparison from last year's CIP for the full planning period versus what we are proposing for the upcoming planning period. You can see there is more investment in the water fund, again trying to improve our maintenance activities for that segment of the infrastructure. You can also see there is a significant difference, again, under Public Works, and again, showing the relative distribution by department.

Significant projects over the planning period include: new lines and services (\$750k), new substation lines (\$1.4m), SCADA and automatic switching system, Curtis Water tank mixing retrofit, significant investment in water main renovation as well as water tank maintenance. All these are areas that we need to make capital investments and to continue to provide services. We also included a sanitary sewer study to look at where we need to be making improvements in our sewer system. We have a continuing obligation to improve our ADA handicap ramps around town. Christina Creek improvements relate to areas along the creek where we have trails that are threatened by the changing pattern of the creek. We are also looking for parks development at our Curtis Paper Mill site as well as across the street and down the road, the Old Paper Mill Park site which right now is basically an open field. We also note the downtown parking garage which is, perhaps, the most significant single item, I think. That is not specifically included in the numbers. Because of the size it is so out of proportion to past CIPs. We have regular recurring annual programs, vehicle replacement being typical of that.

Mr. Dennis McFarland: What we want to do is give you some financial context that was used as these Capital Budgets were developed. This is the same forecast that City Council reviewed back in April. There are some significant points that will come out of this in terms of the fairly tight financial constraints that the City is going to be operating under for at least the next three, four, five years. You will see as we go through this there is not a lot of slack.

These are the assumptions we included in this forecast. We tried to give a pretty straight forward extrapolation as if we took where we are today and just printed that straight out in time without taking any proactive initiatives. This is what we have come up with. Wages increased 4% compared to overall inflation of about 2.5% largely attributable to what we expect to be continuing increases in healthcare costs. Purchased power costs for these purposes we assume will go up at the rate of inflation. Those costs are very volatile. It is pretty much anybody's guess what they will do by time period. Utility load growth – we assumed electric demand would go up by about 1.5%. That

could be dampened somewhat in the short-term by the recession but long-term that is probably a conservative estimate of what we think the electric demand would be. And then the water and sewer demand we have projected to grow about 1% annually. If anything, that could be on the optimistic side. The City has a general financial policy that we would like the utilities to earn at, 20% operating margin. So, in this forecast we do have all the utilities doing that, but that is after a significant water rate increase in 2010 of about 37%, a significant sewer rate increase of 8% in 2010. The electric rates will tend to go up more moderately than that, probably around 2% a year. Obviously, the sewer rates we will also need to track the County charges that we get.

Mr. Lopata: Dennis, I think you want to mention, so there is no misunderstanding, that employees did not get a 4% increase this year.

Mr. McFarland: Correct. This is just a forecast. It is not a budget. Council hasn't taken any action upon this.

With respect to the Municipal revenues, we forecasted property and transfer tax revenues increase at about 2% annually. Property taxes did not change the underlying tax rate. We typically get some growth in property taxes as a result of incremental increases in the assessments as new properties come on and change hands. Transfer taxes are very, very weak this year in 2009. They will probably stay weak until we start to come out of the recession. So, a 2% on transfer taxes at this point in the game is optimistic.

We assume the revenue impact of the Chrysler site – if it changes hands – the revenue impact is neutral, but in the Capital Program we have set aside substantial dollars for the possibility of needing to build a new substation to service that site depending upon how it is utilized. And, again, for these purposes we have assumed the economic impact of the parking garage is neutral. That has been kind of an assumption that the garage will pay for itself both in terms of operating costs and capital costs. Obviously, that remains to be seen.

This is essentially the income statement projected for the next five years. The key point here is really the bottom line in terms of where the City is going to be at the end of each year. Essentially, our operating revenues are going to be insufficient to fund operating expenses and capital expenditures for essentially every year in the forecast period by roughly \$1 million per year. Again, that is assuming no proactive steps are taken that address the revenue side or the expense side.

In large part, I think, this is probably from a financial forecast perspective the most important slide where we are showing the year-end cash balance. We began 2009 about \$14.4 million in the bank. This forecast projects that by 2014 that balance will be about \$11.1 million. So, obviously there is substantial decline in the cash reserves. We are starting out from an already depressed position. To maintain a credit rating of AA, which is what the City has today, we really should have somewhere between \$25 million and \$30 million cash in the bank. Rather than declining \$3 million over the period, we would much prefer seeing an increase by about \$16 million. What that suggests is the challenge for the City to generate either through reduced spending or increased revenue of about \$4 million a year for the next five years. So that is kind of the financial climate that we were developing this budget within, and we shared with Council. Obviously, that put a damper on some of the things we might otherwise have wanted to do.

Mr. Bowman: Are there any questions from any members of the Commission for our presenters.

Mr. Rob Osborne: Thank you for the overview. I noticed on one of the slides you talked about the Public Works expenses being up significantly, I think, almost 2 times what they were. Can you talk a little bit more again about what is driving that in Public Works so I understand.

Mr. Sonnenberg: We have had analysis done of our streets and the methodologies that have been used in the past to maintain the streets have been woefully inadequate. The processes that have taken place have not kept up with the deterioration of the streets, and

as a result each year we will see increasing significant financial burdens placed on the City to maintain the streets if we don't do something sooner as opposed to later. So, the bulk of that is related to trying to get our street maintenance program where it needs to be to halt the decline and to save millions of dollars in money.

Mr. Osborne: That was on slide #8 – Public Works General Fund over that five-year horizon going from \$9.9 million to \$14.2 million -- so, most of that is driven by the increase in the street maintenance?

Mr. Sonnenberg: If you don't keep up with your infrastructure, there is a curve that basically goes like this and the quality of your streets drops off significantly after a certain point, and you want to catch your maintenance just before it starts to drop off to keep it serviceable. If you catch it down here, which is basically what we have been doing in the past, you have to spend a lot more money. Basically, you have to reconstruct the whole street. There are much more cost effective maintenance methodologies that you can use earlier on in a life cycle of a street to stretch out its useful life.

Mr. Osborne: Our streets are maintained by DelDOT, right?

Mr. Sonnenberg: No, the City maintains its own city streets, but the main thoroughfares are DelDOT streets, but we have all the streets in the neighborhoods.

Mr. Osborne: So, this is primarily the neighborhood streets and things like that.

Mr. Sonnenberg: Neighborhood streets, connector streets, that sort of thing.

Mr. Lopata: Essentially, Rob, the numbered roadways are State streets with some exceptions. Barksdale Road is a State road. Casho Mill Road is a State road. By and large the residential neighborhood streets are City streets.

Mr. Osborne: So, what is driving this is the focus on those neighborhood streets.

Mr. Begleiter: The projection in one of the slides about the growth in electric demand was, I think, about 1.5%. Is that right? What part of the 1.5% projected – I realize it is just an estimate – growth is attributable to your built in Chrysler site projection for additional electricity. Is that built into the 1.5%?

Mr. McFarland: No, it is not. We try to be revenue neutral on the Chrysler site. For 2009 we really had no usage there. There is minimal usage right now so when we (inaudible) there is no impact. The Chrysler site wouldn't affect that growth rate.

Mr. Begleiter: So, you kept it revenue neutral but not cost neutral because you built in the \$1.2 million for a possible substation for a possible use of a site that hasn't had anything done to it yet.

Mr. McFarland: The Electric Department feels that if they don't need to construct that substation within the five-year timeframe, they would likely recommend that we construct one of the existing substations.

Mr. Begleiter: Use the money for something else other than the Chrysler Plant. I guess I would suggest that that is, to me, an obvious place to reduce the Capital spending plan. There is no evidence of anything going to happen to the Chrysler Plant within the next year or two. If it happens, obviously, everybody will know about it well in advance and by the time next year's CIP comes around you will have an opportunity to build it in then.

Mr. McFarland: Clearly, we have that project, I believe, scheduled for 2013. We did push it out so it is not in the near term where the financial problems are most acute.

Mr. Begleiter: You made a point of saying there was no change in the property tax rate, but you expect because of assessments and transfers you get some revenue from that source anyway, and yet the utility taxes are maintained at the ability to turn a 20% profit on all three utilities every year. That seems to me to be another place where in tough

financial times that are as tough as you describe them to be, it would be possible to cut those profit rates.

Mr. McFarland: If we cut those margins, that means there is less money for the City to spend.

Mr. Begleiter: There is less taxes in one pot, you could get them out of another pot.

Mr. McFarland: We presented this to Council so that we could lay those kinds of issues in front of them. Obviously, that is all within their purview how they want to balance that.

Mr. Begleiter: Is there anything wrong with my thought that what you have chosen to do is keep the property tax at a no change rate but you have chosen to effectively increase the utility tax to maintain the 20% profit figure?

Mr. McFarland: What we had was we have a policy to target a 20% margin in the utility fund so we left that policy constant.

Mr. Begleiter: And, the City has no such policy about the property tax? It is open ended on the property tax. It could be 40%.

Mr. McFarland: Yes. There is inflationary rate on a property tax rate.

Ms. Angela Dressel: I have a question on the Public Works maintenance fund. There hasn't been one in the past apparently, on page 8.

Mr. Lopata: There has been one. It just hasn't been substantial.

Mrs. Dressel: My question is, what is included in that because it sounds like the general fund has all of the street maintenance and things like that?

Mr. McFarland: The \$98,000 is basically to replace the gas pumps down at the warehouse lot. Typically, they don't have much in the way of Capital expenditures in that fund.

Mr. Lopata: That is not the streets that Kyle was talking about if that is what you are asking.

Ms. Dressel: The general fund, isn't that were he said the street . . .

Mr. Lopata: This Public Works maintenance fund is not for maintaining streets.

Ms. Dressel: Right -- that was the general fund and now the maintenance fund is the one I am asking about. The parking fund also looks like it's doubled. Can you give a little background on that one?

Mr. Lopata: There are several projects, and again, it is over the 2010-2014 period. If you look in your book you will see that they are spread out. There is a lot that is going to be redone. There is some security equipment. It is pushed off into the future because of the potential for the garage. Then there is a major installation of pay-on-foot equipment in Lot #3 behind Abbotts Shoe Repair and Wilmington Trust.

Mr. Begleiter: Approximately what percentage of what you call the electric margin and I call profit or utility profit is devoted, in this plan, for what I would characterize as aesthetic improvements in the City's electric infrastructure. Is there a number in here? I looked for it and was unable to find it.

Mr. McFarland: There is nothing specifically identified.

Mr. Lopata: We will talk about that next month -- a new electric fund -- at the August 4th meeting.

Mr. Begleiter: But, it is not in the Capital Budget. There is no plan in the Capital Budget currently to devote any funds toward that end.

One other question I had on the wide area network proposal, which I realize in the scheme of the projects that you have outlined as small potatoes. I think it is \$100,000. I have raised this issue in the past before as well, that network talks about the installation of equipment, and it talks about the leasing of fiber lines and T1 lines and things like that, and I'm not an expert on those technologies, but has the City considered and rejected the idea of avoiding those Capital costs for installation of wires from point A to point B to function for just these small City agencies or individual City agencies and spending the \$100,000 on a wide area network that would provide broadband access to all businesses – the government and the City of Newark?

Mr. McFarland: That would be substantially more.

Mr. Begleiter: You have looked into that?

Mr. McFarland: Oh yes, that would be substantially more and raise a host of security issues as well. And, given what the University currently does, we don't think there is as pressing a need for that as there would be in some other communities where you didn't have a university infrastructure already in place.

Mr. Begleiter: So, there is a need for just these agencies, but is the security thing your main concern on that?

Mr. McFarland: There are ways around it, but I would say it is more the cost benefit.

Mr. Begleiter: I don't know if it is appropriate, but at some point would it be possible for me to see your analysis of that potential project?

Mr. McFarland: Sure.

Mr. Begleiter: I would like to do that. Thank you.

Ms. Peggy Brown: This is on the underground which Ralph is alluding to. You do have in your Capital Budge project detail a Nottingham Green distribution upgrade. When are you doing this? It says here first year in program 2009. Are you taking the power lines down and sticking them underground there?

Mr. McFarland: I believe that is the case where they are already going to have to tear up the lines for the upgrades and it is more cost effective when you are doing that to go ahead and put them under when they can.

Mr. McFarland: I'm not sure that was an aesthetic decision. It was once you are there and you are doing it, there is some benefit, obviously, to get the lines underground. You just have to access the different connections.

Ms. Brown: There are no other projects like that where they are going to put the wires underground?

Mr. Lopata: Let me try to make this clear so the Planning Commission understands this. Based on the Comprehensive Plan recommendations that you folks made and the Council ratified last October and now we are moving to the implementation stage, at your next meeting we will be proposing a set of aesthetic and environmental standards upgrades for the community to consider, one of which is an electric utility underground impact fee. The report is in draft form now, and that will be before your next meeting to talk about something that we have talked about at great length. I mention that so we don't belabor that with the Capital Budget. It is not like we are ignoring that issue. It, in fact, is coming on August 4th.

Ms. Brown: But, this is the only project in the budget currently proposed for electric underground cable?

Mr. Lopata: There may be some other upgrades.

Mr. McFarland: There is also, if you will, a blanket budget in there for new service lines. If a new development came in, there would be a bias to put anything new underground.

Ms. Brown: Yes, but I am looking at what we have already.

Mr. McFarland: There is nothing in there to move what is already above ground underground except for Nottingham Green. As the finance guy, I can only refer you to that forecast where we are as tight as we are. Folks had to make some tough decisions about what they thought was essential to maintain a service level.

Ms. Brown: I am a little confused here. Capital Expenditures by Department 2010 and then Capital Expenditures by Department 2010 out to 2014. Your Police budget is 15% on the 2010. Is the Police budget also purple on the time out budget? You have your pie charts here 14%. You have reduced the percentage. What I am saying is purple Police? Okay, you have 15% there for the Police and the next one I think is 14%.

Ms. Dressel: On page 9.

Ms. Brown: I'm not sure Police is 14%.

Mr. Lopata: It is over a five year period.

Mr. McFarland: One is just for the one year and the other is for five years.

Ms. Brown: Yes, I know, but I am trying to determine the percentage there. Are the Police still purple?

Mr. Bowman: The answer is yes.

Ms. Brown: The other question I have is on your five year Capital Improvements. You have in 2011 ballistic vests for Police – an expenditure of \$25,000. Do they currently have ballistic vests?

Mr. McFarland: Yes, these are replacements. They have a life cycle and they have to be replaced.

Ms. Brown: But, my question is, does everyone have one of these currently?

Mr. McFarland: All the officers that need them will have and have them now and will still have them. The Parking enforcement folks don't. All the active officers do.

Ms. Brown: All the people in the field have them.

Mr. McFarland: Yes.

Ms. Kass Sheedy: I have two questions. One is -- how is the Country Club property or site being handled in terms of costs and revenue? Is it assumed to be staying as the Country Club for now?

Mr. McFarland: We have not put anything in here for the development of that site.

Mr. Lopata: The developer would pay for the entire infrastructure so, costs to the City are nominal if it is ever developed.

Ms. Sheedy: But, there would be all those houses there with air conditioners and lamps.

Mr. Lopata: That is probably revenue.

Mr. McFarland: No, that is not factored in. That site is essentially revenue and expense neutral.

Ms. Sheedy: On your slide of the goals for the CIP. The last goal is environmental sustainability. In going through the details and I was looking for things like hybrid cars in the fleet replacement. I really didn't see anything that could be called out as part of an environmental sustainability initiative. Are there any things in the plan that are simply buried in the numbers?

Mr. McFarland: I think what we are trying to do is bury that concern in the decision making process when we go about designing any particular project. We have not made a final decision on vehicle replacements which is will a given percentage be hybrid or not. But there is clear instruction that that is to be considered and if it makes sense we are going to do it. That goal first came up last year because we finally did have a very explicit project of the recycling at about \$600,000. So, we put it in there. There aren't particular projects for it, but what we are trying to do is ingrain it so that every time someone proposes a project, that gets consideration. Also, we are hopeful of getting some stimulus money which would let us promote energy conservation within the City facilities. That could come this year or next year, but since that is kind of a wash, we could not include it explicitly in this program.

Ms. Sheedy: Given that it is becoming more of an issue both in terms of economics and interest on the part of the general public, I would suggest that it might be a good idea to, in future budgets and CIPs and so on to call out a page that says, this is what we are doing. I think it would be helpful to the citizens and also benefit the City. We would certainly like to be seen as forward moving in that area, I think.

Mr. Begleiter: Something Roy said prompts me to ask this. Roy, you said that the Country Club developers would pay for all the infrastructure improvements in utilities, etc. Why wouldn't that be the same for the Chrysler site?

Mr. Lopata: This is the case for the Chrysler site except for the large substations. We put that in.

Mr. Begleiter: And why is that?

Mr. Lopata: That's the tradition of the City. In fact, even with electric, in a residential subdivision we work out an arrangement where the developers pay a portion of the cost to put in the electric. We pay some of it because we are in the electric business. So, that is a little bit different than the water, sewer and roads. In a large electric development, for example, a developer might put in all the trenches for the underground lines, which saves us a considerable amount of money in terms of labor and then we will go ahead and put the lines in.

Mr. Begleiter: Of course, they wouldn't be able to develop it if they didn't have electricity. So, it is in the strong interest of the developer to build that into their cost.

Mr. Lopata: That is why we do it and that is why they do it.

Mr. McFarland: There are a couple of instances. The substation is a much large dollar cost than it is to put in – the service in a particular area.

Mr. Lopata: Right now we are not serving Chrysler so that is a big difference.

Mr. McFarland: Also, the substations tend to reinforce the reliability of the whole system. So, when we put one of those in all the customers on the system benefit. There are municipalities that will try and set up some type of special taxing district for something like that where all future incremental taxes from that development could be dedicated back. The thought would be if you cost the developer to \$1.4 million before the first operation began on that site, you would hinder the development of the site and hurt yourself from an economic development standpoint. The dollars are too big.

Mr. Begleiter: This is obviously not the place to discuss the details of that, but the Chrysler site is clearly a unique piece of property in and around the City of Newark and it just seems to me that unique and special arrangements could be, and perhaps should be, considered for financing the unique electric needs of a site that big, obviously depending on what is going in there. If they put a farm in there, you might not need so much electricity. If they put something else in there, you might need it.

Mr. McFarland: We know there is going to be an issue when that site is developed. It is going to be substantial. I think it is best to look at that project as a placeholder until those details get worked out.

Mr. Begleiter: I think I would agree with that, too, but I would also suggest that it is not right to just assume that because every small development has a different policy there, therefore, the Chrysler site should have the same policy. But, I hear what you are saying.

And then, Dennis, you said something a minute ago also that went by me real quick. You said, in any new development the wires are put underground typically.

Mr. Lopata: Residential.

Mr. Begleiter: But, you don't really mean that, right, because all the new developments that are approved on Main Street including residential ones on Main Street, which are sometimes called by other names . . .

Mr. McFarland: I live in Briar Creek. It has been built in the last couple of years. All the wires are underground there. Any time you have a development like that they will go underground. It is not like if something gets converted to residential on Main Street that that would prompt you to. . .

Mr. Begleiter: So, you didn't mean all new developments, you meant all new developments outside Main Street.

Mr. Lopata: No, we meant residential. Not downtown. Those are mixed uses. Those are not "residential." All of our new single family townhouse apartment developments have underground lines.

Mr. Begleiter: When you say residential you are using the legal zoning definition of residential even though people actually live in the developments on Main Street.

Mr. Lopata: Right.

Mr. Begleiter: And, even though they are new in many cases they are not converted they go down to 0.

Mr. Lopata: Yes.

Mr. Bowman: Any other questions from members of the Commission.

Mr. Osborne: Mr. Chairman, one thing that I overlooked earlier was on slide 11 there was a note of a 37% increase in the rate for water?

Mr. McFarland: Yes.

Mr. Osborne: What is driving that in 2010? This is the rate that the residents are paying.

Mr. McFarland: Again, it is trying to get the water utility up to where it earns a 20% operating margin. We had a rate increase scheduled to go into effect at the beginning of 2009. That got delayed and changed such that the margin in the water utility is under 10% now. And, coupled with the fact, it is alluded to, we are going to be making increased Capital investments in the water utility over the next five years.

Mr. Osborne: Maybe this isn't the right forum. Maybe I should address this through Council or my representatives, but maybe there is a way to soften that so that it isn't such a significant increase. Maybe you did consider that.

Mr. McFarland: If we had gotten what we thought we were going to get in the beginning of 2009, it wouldn't be as large as it is going to be for 2010. We have not had a significant water increase in five or six years.

Mr. Lopata: Rob, part of the problem has been, and we are all wrestling with it, over the last 20 to 25 years we have really underfunded a series of accounts. Water being one of them and property taxes as well, as Ralph touched on. So, we have kind of fallen behind in terms of inflation, in fact, significantly. And, then we have had this incredible turn-down. So, we have fallen much further behind than we might otherwise be, and we are trying to get ourselves back on track by putting our financial house in order through the adoption of these policies that occurred back in March. And, I think, the policies led to this forecast that you have before you. The Council just adopted these so we are trying to stay on line. We fell a little bit off the track with the water rates right off the bat. We need to get that back on line so the City continues to follow the financial policies that were just adopted.

Mr. Bowman: Does anyone wish to comment from the public? In the interest of the full agenda we have tonight, if you step to the microphone I am going to ask you to limit your comments to five minutes and be succinct and to the point.

Since we have no comments we are back to the table again and the Chair will entertain a motion on the Capital Budget presentation for 2010-2014.

MOTION BY DRESSEL, SECONDED BY SHEEDY, THAT THE PLANNING COMMISSION RECOMMEND THAT CITY COUNCIL APPROVE THE 2010-2014 CAPITAL IMPROVEMENTS PROGRAM.

VOTE:7-0

AYE: BEGLEITER, BOWMAN, BROWN, DRESSEL, McDOWELL, OSBORNE,
SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF THE MAJOR SUBDIVISION AND SPECIAL USE PERMIT OF THE 6.03 ACRE 1119 S. COLLEGE AVE. PROPERTY FOR A SIX-STORY 101 ROOM CANDLEWOOD SUITES HOTEL.

Mr. Bowman: We have a request from the applicants that this be tabled for consideration until the August 4th meeting. The Chair will entertain a motion to do so.

MOTION BY OBSORNE, SECONDED BY BROWN, TO TABLE CONSIDERATION OF THE CANDLEWOOD SUITES HOTEL MAJOR SUBDIVISON AND SPECIAL USE PERMIT AT 1119 S. COLLEGE AVENUE UNTIL THE AUGUST 4, 2009 PLANNING COMMISSION MEETING.

VOTE:7-0

AYE: BEGLEITER, BOWMAN, BROWN, DRESSEL, McDOWELL, OSBORNE
SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

4. REVIEW AND CONSIDERATION OF THE REZONING FROM BC (GENERAL COMMERCIAL) TO BB (CENTRAL BUSINESS DISTRICT),

MAJOR SUBDIVISION AND A SPECIAL USE PERMIT OF THE 1.165 ACRE 136 ELKTON RD. PROPERTY FOR A THREE-STORY COMMERCIAL/RESIDENTIAL MIXED USE 10,600 SQ. FT. “FOOTPRINT” FACILITY WITH 14 UPPER FLOOR APARTMENTS.

Ms. Sheedy: Mr. Chairman, I just wanted to put on the record that I work for the English Language Institute which is a tenant in the existing building on this site.

Mr. Lopata summarized his report for the Planning Commission and the public which reads as follows:

“On April 30, 2009, the Planning and Development Department received applications from Elkton Plaza Associates, LLC, for the redevelopment of their 1.165 acre property at 136 Elkton Road. The applicants have requested a rezoning from the existing BC (general commercial) to BB (central business district) zoning, major subdivision, and a special use permit in order to demolish the existing buildings on the site and to construct a three-story commercial/residential mixed use 10,600 sq. ft. “footprint” facility with 14 upper floor apartments.

Please see the attached Landmark Engineering Development Plan, applicant’s supporting letter, and building elevation drawings.

The Planning and Development Department’s report on the 136 Elkton Road project follows:

Property Description and Related Data

1. Location:

136 Elkton Road, on the west side of Elkton Road, across from the Elkton/Beverly Roads intersection.

2. Size:

1.165 acres

3. Existing Land Use:

The 136 Elkton Road property is a developed site containing an approximately 7,000 sq. ft. footprint two-story commercial building with a small one-story addition that currently houses the Eagle Diner, the Papa John’s take-out pizza business, the small Happy Garden restaurant/take-out facility, the University of Delaware’s English Language Institute Annex, and the Christina School District’s “Networks” Program. A one-story building is located to the rear of the main building also containing the School District’s “Networks” Program. Surface parking is located at the north and south ends of the site, with the northern parking facility extending across a narrow parcel owned by the CSX Railroad (labeled as a “20 foot wide access easement” on the subdivision plan).

4. Physical Condition of the Site:

136 Elkton Road is a developed site containing an approximately 7,000 sq. ft. footprint two-story building with an adjoining smaller one-story addition. Several one-story buildings are located along the site’s western boundary with the CSX Railroad right-of-way. Paved parking areas occupy the southeastern quadrant and the northern end of the site. As noted above, the northern parking area extends into a narrow parcel that is part of the CSX Railroad property, providing access between the railroad and Elkton Road.

In terms of topography, the site slopes in general relatively gently from high points at its southwest corner toward the northeast portion of the property.

Regarding soils, according to the United States Department of Agriculture's Natural Resources Conservation Service, the 136 Elkton Road site contains Keyport Silt Loam soils. According to the Natural Resources Conservation Service, this soil has "moderate," development limitations for the use proposed.

5. Planning and Zoning:

The 136 Elkton Road site is currently zoned BC. BC is a general commercial zone that permits the following:

- A. Auction
- B. Automobile, truck, rentals, retail, and wholesale sales with special requirements
- C. Crating service
- D. Frozen food locker
- E. Ice Manufacture
- F. Sign painting and manufacture
- G. Warehousing with special requirements
- H. Wholesale sales with special requirements
- I. Photo developing and finishing
- J. Veterinary hospital
- K. Cleaning and dyeing plants
- L. Commercial laundries/dry cleaners
- M. Laundromats
- N. Outdoor commercial recreational facilities with special requirements
- O. Swimming club, private or commercial
- P. Social club, fraternal, social service, union and civic organizations, except on ground floor locations
- Q. Studio for artists, designers, photographers, musicians, and sculptors
- R. Offices for professional services and administrative activities
- S. Personal service establishments
- T. Finance institutions, banks, loan companies
- U. Retail and specialty stores
- V. Repair and servicing
- W. Related indoor storage facilities are permitted as an accessory use to any of the permitted uses in this district
- X. Accessory uses and accessory buildings
- Y. Restaurants, taverns, bakery-restaurants, and delicatessens
- Z. Public parking garage and parking lot
 - a. Parking off-street
 - b. Public transportation facilities, including bus or transit stops for the loading and unloading of passengers; station and depots
 - c. Street, right-of-way
 - d. Utility transmission and distribution lines
 - e. Water tower, water reservoir, water storage tank, pumping station, and sewer
 - f. Retail food stores up to 5,000 square feet in maximum floor area

BC zoning also permits, with a Council granted Special Use Permit, the following:

- A. Automobile repair and/or service station, paint and/or body shop with special requirements
- B. Self-service car wash establishment with special requirements
- C. Automobile/motor vehicle repair with special requirements
- D. Automatic car wash establishment with special requirements
- E. Used car lots
- F. Retail food stores
- G. Fast-food and cafeteria style restaurants with special requirements
- H. Drive-in restaurants, with special requirements
- I. Drive-in and curb service for other than eating establishments.
- J. Substation, electric, gas, and telephone central office with special requirements
- K. Tower, broadcasting and telecommunications with special requirements

- L. Police and fire stations
- M. Library, museum and art gallery
- N. Church, or other place of worship
- O. Instructional, business or trade schools
- P. Motels and hotels
- Q. Commercial indoor recreation and indoor theaters
- R. Adult bookstore/adult entertainment center with special requirements
- S. Restaurants with alcoholic beverages

The requested BB zoning – our central business district zone – permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.
- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.
- H. Repair and servicing, indoor and off-site of any article for sale, which is permitted in this district.
- I. Related indoor storage facilities as accessory uses with special requirements.
- J. Accessory uses and accessory buildings.
- K. Public parking garage and parking lot.
- L. Public transit facilities.
- M. Social club, fraternal, social service, union and civic organizations, except on ground floor locations.
- N. Photo developing and finishing.

BB also permits, with a Council granted Special Use Permit, the following:

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curb service for other than eating establishments.
- C. Fast-food restaurants with special requirements.
- D. Motels and hotels.
- E. Commercial in-door recreation and in-door theaters.
- F. Instructional, business or trade schools.
- G. Electric gas and telephone central offices and telephone central offices and substations with special requirements.
- H. Tower, broadcasting or telecommunications on existing buildings or structures with special requirements.
- I. Police and fire stations.
- J. Library, museum and art gallery.
- K. Church or other place of worship.
- L. Restaurant, cafeteria style.
- M. Apartments, except on ground floor locations, with special requirements.
- N. Restaurants with alcoholic beverages, with special requirements.

Regarding BB zoning area requirements, the proposed subdivision plan meets all the applicable Zoning Code specifications.

Regarding nearby properties, the land immediately south of the 136 Elkton Road site is zoned BN (neighborhood shopping) and contains the Pat's Pizza Restaurant. The MI (general industrial) zoned CSX Railroad right-of-way lies west of the site, with the UN/RM zoned University of Delaware Dickinson dormitory complex and parking area further to the west across the railroad right-of-way. The BC zoned FedEx Kinko's office services building is located north of the site on BC zoned property. This facility shares parking with the 136 Elkton Road property. A BC zoned dry cleaner and laundromat business is located across Elkton Road, east of the site.

Regarding comprehensive planning, Comprehensive Development Plan IV calls for a combination of “auto and/or pedestrian oriented” commercial uses at the 136 Elkton Road location. In addition, the Plan’s Downtown Economic Enhancement Strategy was recently revised to extend the Downtown District land uses to this portion of Elkton Road, with the result that the proposed uses recommended now also include:

“ . . . first floor specialty and traditional retail shops, with a balanced concentration of food and entertainment. Apartments and offices are proposed for upper floors. Any additional apartments, however, must be carefully and closely evaluated in terms of their impact on downtown traffic and parking; their compatibility with existing downtown buildings in terms of design, scale and intensity of development; the contribution of the overall project, including proposed apartments, to the quality of the downtown economic environment; and potential significant negative impacts on nearby established businesses and residential neighborhoods. Beyond that and particularly to encourage owner occupancy downtown, the City may consider reducing the permitted downtown density in the projects in this district for residential projects.”

Regarding gross residential site density, please note that the 136 Elkton Road plan calls for 12.02 dwelling units per acre. By way of comparison with recently approved similar projects on Elkton Road, please note the following:

<u>Development</u>	<u>Units Per Acre</u>
Amstel Square	17.7
119 Elkton Road	15.52
The Millyard	9.39

Status of the Site Design

Please note that at this stage in the Newark subdivision review process, applicants need only show the general site design and the architectural character of the project. For the site design, specific details taking into account topographic and other natural features must be included in the construction improvement plan. For architectural character, the applicants must submit at the subdivision plan stage of the process color scale elevations of all proposed buildings, showing the kind, color and texture of materials to be used, proposed signs, lighting and related exterior features. If the construction improvements plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan – within Code determined and approved subdivision set parameters – to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision agreement for the project.

Be that as it may, the 136 Elkton Road plan calls for the replacement of the existing building on Elkton Road and the various miscellaneous structures on the site with a three-story, 10,600 sq. ft. footprint building occupying approximately three quarters of the property’s frontage on Elkton Road. The parking area and driveways immediately to the south of the existing building will be eliminated. New parking is shown to the rear and north of the proposed building, with a single site access way, just north of the building, and a continued shared access way from Elkton Road with FedEx Kinko, further to the north.

Please consult the applicant’s submitted landscape plan for details regarding the proposed parking area landscaping, solid fencing along the CSX Railroad right-of-way, and street trees on Elkton Road.

Please consult the applicant's submitted building elevation drawings from Bernardon Haber Holloway Architects and supporting letter for additional information concerning the proposed site design.

To evaluate the proposed architectural design, the Planning Commission should consult the design criteria in Municipal Code Chapter 27, Subdivision and Development Regulations Appendix XIV(d).

Please note, in this regard, that on a voluntary basis, the applicants reviewed the originally proposed building elevation drawings with the Downtown Newark Partnership's Design Review Committee, and the Committee recommended in favor of the project and noted, in particular, "... that this building's design is a good example of what we hope to have for the E. Main Street portion of Elkton Road." The Committee also noted its support for wider sidewalks on Elkton Road.

Subdivision Advisory Committee

The City's Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the proposed development plan and has the comments provided below. Where appropriate, the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Planning and Development Department notes that the proposed mixed use commercial and residential development for 136 Elkton Road corresponds to recently approved projects in the immediate vicinity of the site. The proposed land use also conforms to the recently updated land use recommendations in Comprehensive Development IV and the Plan's Downtown Economic Enhancement Strategy for this location.
2. The Planning and Development Department suggests that the Planning Commission recommend as subdivision site design conditions the following:
 - That the architectural design for the proposed new building be carried out on all portions of the facility visible from public rights-of-way.
 - That mechanical equipment and utility hardware be screened from public view with materials harmonious with the proposed architectural design or they shall be located so as not to be visible from public rights-of-way.
 - That exterior lighting be designed as an integral architectural element of the proposed architecture.
3. The Planning and Development Department suggests that the subdivision agreement for 136 Elkton Road specify that the proposed units should be designed so they can be easily converted to for sale condominium apartments.
4. The Planning and Development Department notes that a subdivision identification sign should be shown on the plan.
5. The Public Works Department indicates the following:
 - Any improvement shown in the existing 20' wide "access easement," at the east end of the property needs to either be removed, or an agreement with the CSX Railroad (the owners of this parcel) should be submitted specifying that these improvements are acceptable.
 - The metes and bounds for the site and the "access easement" should be shown on the plan.
 - Any parking spaces shown on the eastern property adjacent to the site should also be removed or written permission from the adjacent property owner for such spaces submitted to the City.
 - The existing water and sanitary sewer lines should be shown on the plan.
 - The proposed sidewalks along Elkton Road should be five feet in width and should be coordinated with the DelDOT Elkton Road Improvement Project.

- Concerning stormwater management and related items, the applicant should review these matters with the Department through the construction improvement plan process.
 - A letter of “no objection” will be necessary for approval for access to Elkton Road.
6. The Electric Department indicates the following:
- Electric service is available from Elkton Road; the electric service pole for the building is located on the building’s right side facing from Elkton Road.
 - A suitable location for a padmount transformer approved by the Department is required; bollards must be installed for the protection of the transformer.
 - The developer will be required to pay \$13,000 to the City towards the cost of the transformer and the developer shall install a transition box based on the electrical service design.
 - The developer must pay \$100 per meter for apartment meters and \$350 per meter for commercial meters.
 - Because the aerial line in front of the building cannot be de-energized, the applicant will be required to use appropriate scaffolding during construction between the building and these lines. The developer will be required to pay for any protective covering necessary during construction as well as to sign a liability waiver.
 - The existing guy anchor near the middle of the building will not be able to be relocated.
7. The Police Department has raised concerns about the number of tenants residing in the building in relationship to the proposed parking. The Department has also raised concerns about the limited availability of crosswalks on Elkton Road in light of the projected increase in pedestrian traffic resulting from the project. On the other hand, the Department notes that the proposed building will be a considerable improvement over the existing structure.
8. The Parks and Recreation Department indicates the following:
- While approving the landscape plan, the Department suggests that the proposed building be slightly set back in order to allow some additional space for street side landscaping.
 - The six foot solid fence detail should be shown on the construction improvement plan for the project.
9. The Building Department indicates that the new facility must comply with all current International Building Code and Fire Prevention Regulations requirements, including a requirement for the installation of a sprinkler system.
10. The Water and Wastewater Department indicates the following:
- The sewer lateral needs to be examined to determine its condition and capacity and be replaced to the main, if necessary.
 - All utility connections need to be made in Elkton Road prior to construction beginning at DelDOT’s Elkton Road Improvement Project.
 - Water meters and STP fees will be required to be paid by the applicant.

Recommendation

Because the proposed 136 Elkton Road development plan conforms to the land use recommendations, in Newark Comprehensive Development Plan IV, because the proposed commercial/residential mixed use major subdivision conforms to recently approved projects in the vicinity of the site, and because the proposed 136 Elkton Road rezoning, subdivision and special use permit plan, with the Subdivision Advisory Committee recommended conditions, will not have a negative impact on adjoining and

nearby properties, the Planning and Development Department suggests that **the Planning Commission make the following recommendations:**

- A. That City approve the rezoning of the 1.165 acre 136 Elkton Road property from BC (general business) to BB (central business district), as shown on the attached Planning and Development Department Exhibit A, dated July 7, 2009;**
- B. That City Council approve the 136 Elkton Road major subdivision plan as shown on the Landmark Engineering plan, dated April 30, 2009, with the Subdivision Advisory Committee's suggested conditions; and,**
- C. That City Council approve the special use permit for apartments in the BB district, as shown on the Landmark Engineering plan, dated April 30, 2009, with the Subdivision Advisory Committee's suggested conditions."**

Mr. Lopata: This is not in my report but I will tell you and those in the audience that we have been working diligently with DelDOT to try to get new crosswalks included as part of the Elkton Improvement project. We had a site walk with several City Officials and several local business people and an army from DelDOT on Elkton Road. We think that they have begun to understand that the several blocks from Amstel and Elkton to Apple and Elkton is much too long to go without a crosswalk, especially in light of these many mixed use/residential/commercial projects that are already on Elkton Road and soon to be open; and we will, perhaps, be approving more in the near future including this project. We think there very much needs to be some sense of pedestrianization along Elkton Road in line with what the State has said they are trying to do on that project.

I will be happy to answer any questions.

[Secretary's Note: The Commissioners and public referred to visuals brought by the applicants for their presentation to the Planning Commission].

Mr. Bowman: Do members of the Commission have any questions for Roy?

Ms. Brown: The sidewalk between the University underground walkway and the old train station, how wide is that?

Mr. Lopata: The old B & O Station?

Ms. Brown: Yes.

Mr. Lopata: I don't think it is five feet.

Ms. Brown: I'm wondering if five feet is wide enough.

Mr. Lopata: That is our standard for commercial sidewalks.

Ms. Brown: The trouble is, there are a lot of people that truck up and down that street. Even up further by Buffalo Wild Wings, people are walking in the street because if there is a bunch of them there is not enough room, and we have a lot of traffic especially with the ELI students.

Mr. Lopata: That is why we are suggesting that it should be widened.

Ms. Brown: Bigger than five feet. It should be wider than five feet for safety sake. One of these days somebody is going to get run over. The other question I have is who owns this property?

Mr. Lopata: Elkton Plaza Associates (Gus Tsionas) owns the property.

Ms. Brown: What is going to happen to the tenants?

Mr. Lopata: I will let the applicants speak to that.

Ms. Brown: My suggestion is that sidewalk needs to be bigger than five feet.

Mr. Lopata: With these Elkton Road improvements, the State is going to be narrowing the roadway down to one lane in each direction with a middle turning lane. That is what I was talking about with this crosswalk business. I don't disagree with you. We are trying to give it the sense of being much more pedestrian oriented.

Ms. Brown: I have seen the State's plan but I think in the meantime for the safety aspect – because who knows when this is actually going to happen with the State – I think the City needs to be very aware of that.

Mr. Lopata: Oh, we are very much aware of it.

Ms. Brown: I think there is a liability issue there.

Mr. Lopata: The State has been told, and that is why we had this walk. The kids are walking in the bike lane. Because there aren't any crosswalks, they cross everywhere. Nobody is channeled to a specific place.

Ms. Brown: Who is responsible on Elkton Road for those sidewalks?

Mr. Lopata: The property owners are responsible for the sidewalks.

Ms. Brown: The property owner should probably be very aware that the sidewalk is probably not going to be big enough until the State does what they are doing.

Mr. Lopata: They are supposed to start in 2010 which is not too far away.

Mr. Begleiter: The Newark Downtown Partnership Design Review Committee, you reported, Roy, on page 6 notes its support for wider sidewalks on Elkton Road. Are the sidewalks you reviewed in this plan wider than whatever the Design Committee thought they should be?

Mr. Lopata: No, we are agreeing with them.

Mr. Begleiter: So, the Design Committee is recommending wider sidewalks but your recommendation is not to do that?

Mr. Lopata: My recommendation is to make them wider -- five feet.

Mr. Begleiter: They are not currently five feet?

Mr. Lopata: Mr. Charma can speak to this in much greater detail.

Mr. Begleiter: On page 7, the Electric Department talked about the need to provide a padmount transformer, the developer would have to provide a space for that, and so on, which I understand is standard routine for all such proposals. But, that would not be an undue requirement for the developer would it, Roy, requiring them to provide a padmount transformer?

Mr. Lopata: No, it is normal.

Mr. Begleiter: So, that doesn't impinge enough to satisfy your standard for your undue?

Mr. Lopata: I'm not following you, Ralph.

Mr. Begleiter: That's okay

The Electric Department also noted the need for the guy wire, guy anchor near the middle of the building. It can't be relocated? I looked for that on the plan but I can't see

it. Does that mean the developer will have to make a notch in the building to allow the Electric Department to keep its guy wire where it wants to keep it?

Mr. Lopata: They will have to work with the developer to figure out what that is all about.

Mr. Begleiter: But, that wouldn't be an undue requirement on the developer either would it? Okay.

Mr. Lopata: It depends upon your point of view. Maybe they think it's undue. I really can't speak for them, Ralph.

Mr. Begleiter: You did not make a recommendation; I don't think I saw one – on the number of apartments. So, assume that you assume that that is an okay number. Is that correct?

Mr. Lopata: The density here, and the parking waiver, they are not asking for a parking waiver.

Mr. Begleiter: So, there is no need to make a comment on that.

Mr. Lopata: Not from my perspective. It doesn't mean that you can't.

Mr. Begleiter: You didn't mention it, so I am just asking whether you considered in your decision on that the issue that we talked about with other development along Elkton Road, namely the proximity of sleeping residents to the railroad track.

Mr. Lopata: That was not something I was concerned about. Having lived in this community near the railroad tracks, I don't find it a problem sleeping.

Ms. Angel Dressel: I just wanted to echo my support for making the sidewalk requirement wider than five feet. I have been shocked driving by Buffalo Wild Wings at how narrow those sidewalks are. Also, the property on Amstel, it just seems very, very crowded with the number of students who are going down those roads. We are increasing the likelihood that the students will be going over to this area so we encouraging additional traffic. I think we need to think about the safety of all of the pedestrians in this area.

Mr. Bowman: Just a comment on the sidewalks. I appreciate the fact that we need comfortable sidewalks to accommodate pedestrian traffic. I live in a development that has standard development sidewalks which I believe are about three feet wide, most of them pretty well maintained; and it seems as though that everybody who takes their evening stroll in and around the develop, including some who take an afternoon stroll who are teachers at the local elementary school, choose to walk right down the middle of the street, which happens to be against the law. Maybe we need to educate a few of these students that they ought to stay on the sidewalk instead of walking in the street.

Roy, I have one question for you. For those 14 apartments will they be deed restricted or limited by Code in the number of occupants?

Mr. Lopata: We are not proposing that. That doesn't mean you can't consider it.

Mr. Osborne: I have a comment. I just want to endorse and support the comments that have been made about the traffic concerns and the walking. I haven't seen the plan that DelDOT has proposed or developed so I don't know if they are considering narrowing or reducing the number of lanes on Elkton Road. To me, that might be a practical solution.

Mr. Joe Charma: I am with Landmark Engineering. Before I get started I want to let you know that the sidewalk in front of the building is now 10 ft. wide.

Mr. Lopata: Not on the plan before the Commission.

Mr. Charma: Not on the plan you have but on the exhibit before you. It is 10 ft. wide and there is really an opportunity to make it even wider. One of the things we talked about with the Design Review Committee was perhaps paving virtually right up to the building. In which case it would be 18 feet wide because not knowing who all the tenants may be and how that may play out and whether the Eagle Diner wants to have some outdoor seating, they will really have the opportunity to do that now. We are all for that and I know that I chair the Design Committee and one of my projects is Elkton Road. We talked about it in length this morning about how we are not happy with DelDOT's plan. Roy knows this, I was part of the contingent that marched up and down the street looking at safety issues and all kinds of other issues. Their plan, while it is a fine feat of engineering, it doesn't address the pedestrian scale that we are trying to accomplish here. We are trying to create more of Main Street.

Tonight I have the pleasure of introducing this proposal for a new building at 136 Elkton Road to replace an aging unsightly out of style building. I am here representing Elkton Plaza Associates LLC. The owners of that are the Tsionas family. Unfortunately, they are traveling and could not be with us this evening. I also have with me the project architect Kerry Haber of Bernardon and Haber Holloway. He is here to discuss any concerns you have regarding the building architecture.

This project consists of a 1.17 acre parcel occupied by an existing one-story building located at the rear of the property and a partial two-story building fronting on Elkton Road. Current tenants, as I mentioned before, are Christina School District, Eagle Dinner, Papa John's, Happy Garden and the University of Delaware. The owners are seeking rezoning and special use permit and major subdivision approval to raze all buildings and to construct a new three story mixed use building. The new building will include approximately 10,600 sq. ft. of first floor retail and commercial spaces with 14 two-story apartments above. It is the owner's intention on retaining the current tenants in as much as practical.

The proposed building will be constructed of masonry construction with a mansard style standing seam metal roof that will create an attractive gable appearance while hiding roof top mechanical equipment. The building façade will use several colors of brick and precast concrete elements along with articulated (inaudible) spaced appropriately to break up the linearity of the building. Detailed windows and translucent awnings covering entry ways will add to the style and uniqueness of this building. To quote the Downtown Newark Partnership Design Committee comment from the June 2, 2009 meeting where they reviewed this project, "There was unanimous agreement that this building as designed is a good example of what we hope to have for the Elkton Road portion of Main Street." It has good massing materials, articulations, offsets, proportions, etc. In short, this building will be an attractive addition to the Elkton Road redevelopment renaissance. It should be noted that the City operating departments had minimal comments regarding this project. The project conforms with the recommendations of the Newark Comprehensive Development Plan IV in the mixed use development pattern of other projects recently approved on Elkton Road. Given these facts, the Planning and Development Department recommends approval of the rezoning request, special use permit and major subdivision plan.

In summary, this project will greatly enhance the streetscape, provide attractive upscale apartment units that someday may be converted to owner occupied units and highly desirable commercial space that will continue to stimulate a vibrant downtown economy.

I would be happy to address any concerns you may have regarding the project.

Mr. Bowman: Are there any questions from the Commission?

Mr. Begleiter: Joe, thanks very much for taking the initiative to deal with the sidewalk issue. I assume that also solves the guy wire notch issue. Is that correct, that moving the building back allows you to keep that wonderfully aesthetic guy wire in its position without any changes?

Mr. Charma: We will deal with it however we need to deal with it. One of the things that DelDOT is asking for is a 10 ft. permanent easement in addition to the right-of-way that is there so that will allow them to move things as they do. One of the points that I want to make about the sidewalk is that what is there now is probably around four feet wide, maybe a little wider when you consider the curb. DelDOT's plan calls for five feet minimum plus the curb. I think what you are going to find is that as these properties develop down Elkton Road, they are going to be wider because you are going to have the opportunity to create the patio environment.

Mr. Begleiter: Just out of curiosity on this question on the width of the sidewalk, is the width of the utility poles in front of the building calculated at all in assessing the width of the sidewalk or do people pretend that the poles aren't there and that you can walk straight through them.

Mr. Charma: Actually, the Public Works Department requires that you have, I think, a minimum of four feet passable space. If there is a pole, you have to make your sidewalk work. In some places around the City you can actually see the sidewalk curve out around the pole to create that clear passage. The poles are noted on the plan you have before you. They are essentially sitting on the property line.

Mr. Osborne: I wanted to add, if I could, to me the width of the sidewalk, while I agree it should be wider if it can be, to me the concern is that on Elkton Road, in particular, the sidewalk, if I'm not mistaken, goes right up to the curb. So, you are walking and there is minimal shoulder on that road so you have cars that are driving by literally within a couple of feet of where you are walking and sometimes at high speeds. That is the concern more than anything. It would be nice to have a wider sidewalk, but to me the bigger issue is that it is so close to the traffic.

Mr. Charma: I know the engineers and the DelDOT people that are working on this project are aware of the project. Being out there first hand and standing next to the road, I think they realize our concerns. Immediately they said they were going to lower the speed limit to 25. They are going to create five foot bike lanes, wider sidewalks, lower the speed limit. These are all the things that we need them to do for this to become a main street.

Mr. Osborne: One of the attractive features of Main Street is that you have the parallel parking as a buffer between the sidewalk and the traffic. You just don't have that here. Even if these guys wanted to put outside patio seating for the restaurant, who really wants to be four feet away from a big tractor trailer going down the road.

Mr. Charma: I am going to put together a letter and forward it to the Planning and Development Department as a result of my meeting this morning with the Design Committee expressing some of our concerns exactly the concerns we were talking about. We think it can be better. We are going to push for it.

Mr. Lopata: Our development projects are ahead of DelDOT. We are doing the pedestrianization from a land use standpoint. DelDOT is playing a little bit of catch up, although they said this is what they wanted to do.

I didn't know that Joe had gone ahead and set the sidewalk back which is great. I think, to a large extent, meets the concern. It doesn't meet your concern in the short run, Rob, but once they put that bike lane in that helps considerably with giving people a sense that they are not on top of the road. Albeit, it is not like having the grass strip like we have in our residential developments.

Mr. Charma: Rob, one of your concerns about the close proximity to the road, we talked about safety and getting people to use the midblock crosswalks that we think are needed and we kind of agreed on places where they should be. The concept of coming up and putting in the Princeton fence (chains and posts similar to College Avenue). That has been real effective in keeping people from just crossing anywhere. That is one of the ideas that is out there. You may see that. They are looking at it -- JMT, DelDOT's design consultants.

Mr. Lopata: Thank you for mentioning it because I forgot that, Joe. That was part of our discussion which would make a significant difference in this evolution to what we hope will be a very different thoroughfare.

Mr. Begleiter: But only if there are more crosswalks. The problem is going to be, if you fence everybody off for effectively two blocks, those kids are going to jump over the fence. You have to have a combination of things.

Mr. Charma: Just to give you an idea, Ralph, when we started the meeting the one engineer from DelDOT said that he was dead set against midblock crosswalks on Elkton Road. He said there was no way it was going to happen..

The issue was that he was thinking we are trying to put midblock crosswalks down by the Suburban Plaza Shopping Center where the speed is 50 miles an hour. When he got out there and looked at it he thought it seemed logical. He left the meeting thinking that the crosswalks were possible. We just have to rethink our design and maybe create a little bump out where the crosswalk is going to be. That is the nuts and bolts of design stuff.

Mr. Begleiter: Just a technical thing that I think amounts to nothing, but I have been looking at this railroad access easement that CSX has and it diagonally crosses the property line at the north, right?

Mr. Charma: It runs up through Kinko's property.

Mr. Begleiter: Does that affectively mean that that property can never be built on or could the easement be changed or modified?

Mr. Charma: That is something we are going to look at with the Railroad. As long as they have access. If you go way back, that is an old roadway that used to cross the tracks here. There used to be an old mansion here on the other side of the tracks. That used to be the driveway to the mansion. That, obviously, is gone.

Mr. Lopata: It is actually a parcel. It is part of their land.

Mr. Charma: We are investigating that. Gus Tsionas is very friendly. He talked to the CSX people years ago when he bought the property because he was concerned. They said it wasn't a big deal, you are parking on it, you can continue to park on it and have all the activities there, but if we need to get in there, we just want you to know, we have the right to get in there.

Mr. Begleiter: It just seemed to me it imposed a restriction on how, in your case, how you had to design the parking and the access to the parking which in this particular plan doesn't make any difference but to the adjacent property it could make a difference and it would make sense to me to try to negotiate that as a line perpendicular to the street rather than a diagonal.

Mr. Charma: Where it hits Elkton Road there is curbing there. You really can't drive on it.

Mr. Begleiter: I wanted to ask Roy. This is not a new development either, right? This is not new residential development?

Mr. Lopata: Not from the context that I think you are asking.

Mr. Begleiter: Not by your definition.

Mr. Lopata: It is the City's definition. This was policy even back before me.

Mr. Begleiter: I didn't think there was any policy before you. So, this property would not be subject to Dennis's comment that all new developments would have their power lines buried even though this would be an outstanding location to do that because

everything on the site is being razed to the ground, the setback is going to 18 feet, the street is being rebuilt, the bike lanes are being installed, everything else is moving except, perhaps, the curb is going to actually move on this development, but those power lines and guy lines are going to stay right where they are.

Mr. Lopata: Except in this case, even a residential development I don't think they would do on Elkton Road because of the voltage. This is a higher voltage.

Mr. Charma: Personally, I think Elkton Road with a road improvement project underway, I think that we should probably investigate it. Again, that is something for DelDOT to, perhaps, open dialogue with the Electric Department and talk about it because if you are tearing up all the sidewalks, it makes sense.

Mr. Begleiter: You are tearing up everything. There is no argument that we don't want to disturb something.

Mr. Charma: It makes a lot of sense.

Mr. Begleiter: Not only are you tearing it up on this property, but it is perfectly obvious that the next property is going to have the same thing happen to it, and the one just north of it has already happened to it.

Ms. Dressel: My favorite hot button is how far the back wall is from the railroad tracks. I have looked and I cannot figure it out from the shortest distance. Can you tell approximately?

Mr. Charma: It is about 105 feet.

Ms. Dressel: So, that is considerably better than the Buffalo Wild Wings project, which I really had a problem with.

Mr. Charma: That building is at the rear yard setback for the parcel.

Mr. Lopata: In addition, there are school children now in the back of this building at the Networks site, who are much closer to the railroad tracks.

Ms. Dressel: But, they are not sleeping.

Ms. McDowell: You get used to it.

Mr. Begleiter: That was a worthwhile comment, "they are not sleeping," and "they will get used to it." But, the issue is not about people being woken up by the trains. That is not the issue. The issue is about the toxic chemicals that are deadly chemicals that are carried on that track many times a day -- most of them unidentified and most of them unidentifiable by anybody other than an expert, and most of them unknown to the emergency personnel who are responsible to responding to those situations.

Ms. Dressel: My other concern is because in the last month we have had it seems like an inordinate number of trains with derailments, death and injuries. So, I am even more concerned about this, but I must say that when I saw the plan I was very impressed because, 1) all of the parking is in the back, which removes the residents from the closest possible proximity; my other kudos goes to you because this building looks so much nicer than some of the others we have seen recently because there is different color brick, there is different materials used and a lot more of the white to break it up. I really appreciate the effort that went into that so that we don't have this dark hall or dark tunnel going down Elkton Road, which is what I was beginning to feel like with the buildings that have been going up recently.

The next thing that I wanted to ask you is, how many square feet of space that is actually being used by Networks and things like that is there on the property because your property is now going to be 10,600 sq. ft., and I am wondering if Networks is going still be able to be there?

Mr. Charma: They intend on keeping the tenants that they can. They are trying to keep the current tenants. They all have leases that are active leases. I don't have that number at the top of my head, but I know that the existing building sitting right about there with respect to this new building. I think the square footages are probably comparable, pretty close, just in a different configuration.

Ms. Dressel: That is what it looked like to me but I just want to make sure because, as Roy said, there are school children here and I think what is going on that property is a really valuable thing for the community and for those children. And, I know we have no control over who the tenants are, but I would really hope that a program such as Networks and the English Language Institute would be able to be retained as tenants on this property or very close by.

I applaud you for increasing the 10 foot sidewalk. That is really, really fabulous.

Ms. McDowell: I had some questions about Networks, too. You had said that they would hope to retain all the tenants. That being the case, you said if they can, I know a lot of the students that are part of Networks are in wheelchairs and have special needs. So, is there consideration for that as part of the construction?

Mr. Charma: Absolutely. This building will fully comply with ADA requirements. The first floor level will be 100% handicapped accessible. We have to do that by law.

Ms. Sheedy: Joe, can you help me out with the number of parking spaces because as I am looking at the drawing the existing parking is 44 spaces, but that is only the Eagle Diner side, and then the amount of parking that is required and proposed is 94. In the list of tenants that doesn't include the Christina School District or ELI or a similar replacement of those tenants. So, I am concerned that we are going to wind up with a really bad parking situation.

Mr. Charma: Do you see that there is 3,200 square feet of just retail?

Ms. Sheedy: Right, with six employees.

Mr. Charma: That is just space that we are left over with, so that could be the other uses. We just called it retail.

Ms. Sheedy: That is 17 parking spaces, and I have never counted but in the parking lot between the southwest end of the building and the boundary with Pat's Pizzeria. There are probably 40 spots in there because there are three banks of parking, and that is frequently filled to capacity.

Mr. Charma: All I can say is that we have followed the Code to meet the parking requirement and the parking does meet the building uses for the size of the building. I know that some of the spaces on the Eagle Diner side don't meet the current standards as far as isle width space sizes. That is probably the case on the other side also.

Ms. Sheedy: I am looking at how many cars there are in that lot on a fairly regular basis.

Mr. Charma: I don't know how many of those cars actually belong there. That is part of the problem.

Ms. Sheedy: That is a whole other issue whether they belong there or not because students aren't supposed to be able to park.

Mr. Charma: I know that Gus has had some issues towing here and in some of his other properties because a lot of people park in the spaces that should not be here. So, you may be getting a false impression of the usage of that lot. It is not the tenants creating that parking, it is people coming from elsewhere.

Ms. Sheedy: Based on observation, the people who are using the lot that aren't supposed to be using the lot are students who are there for the tenants. They are students who are coming into that building, but students are not supposed to be there.

Mr. Charma: I don't know what students you are talking about. Students that are Network students?

Ms. Sheedy: No, ELI students. The Network people come by bus as far as I know.

Why didn't you count as existing parking spaces that other parking lot?

Mr. Charma: It is not on our property.

Ms. Sheedy: It is on your property. You are going to put a building on part of it.

Mr. Charma: Where are you talking about? On the west side of the building?

Mr. Lopata: Somebody is confused. You just mean the parking to the east toward here?

Ms. Sheedy: To your left.

Mr. Charma: I thought we recounted all of the spaces.

Ms. Sheedy: It doesn't look like you did. It looks like you counted only Eagle Diner.

Mr. Charma: Are you looking at the record plan?

Ms. Sheedy: I am looking at this. And under existing you say. . .

Mr. Charma: Okay, you are misunderstanding the plan. What that says is the existing spaces required based on the uses that are there.

Ms. Sheedy: Alright, but that still doesn't count Christina School District or ELI. It only counts the restaurant.

Mr. Charma: It is kind of irrelevant with respect to the new plan.

Mr. Lopata: What they are really showing you are how many spaces are proposed. If you are trying to use the parking to figure out who is going to be in the building, we are not going to be able to.

Ms. Sheedy: No. It looks like what we have based on the proposed parking is one sit-down restaurant, two fast food restaurants.

Mr. Lopata: That is what I am trying to say. You can't figure out future tenants. They came up with a formula to try to get a sense of how much parking was needed so they used, essentially, the existing tenants with some number assigned left over to cover the school. That doesn't mean the school is going to be in there.

Mr. Charma: Roy has it exactly right. The 2,200 square feet we assigned it as a retail use because that actually has a higher parking ratio demand than an office use.

Ms. Sheedy: I am really not concerned with what is going to be there or not be there. It looks to me like you are undercounting. If you are confident that there is enough parking to accommodate whatever might happen in that building, then you are confident. It seems to me there could be too little parking.

Mr. Charma: I'm confident that I am Code compliant. I kind of get mixed feelings from the Commissioners. If I came in here with a plan that showed 200 parking spaces, you would say why are you so over parked? You don't need all that extra space.

Ms. Sheedy: Maybe. Also, this is nitpicking. The other buildings that are going to be demolished aren't shown on the plan as to be demolished.

Mr. Charma: They are. Just to the left of the property.

Ms. Sheedy: Sorry. I apologize.

Ms. Brown: I have to reiterate that I like the way this building looks. It reminds me a lot of Alexandria, Virginia, a nice façade. I like the awnings and from what you have them made of sounds like they are going to be able to stay there all year round. It is really very, very attractive. It also reminds me of these main street malls that I have seen around the country. It doesn't look like somebody hijacked a brick truck.

I have a question about how many tenants you are going to put in each apartment. You've got 14 apartments. You are proposing 3 bedrooms for each apartment. Is that going to be one body in each bedroom?

Mr. Kerry Haber: I am with Bernardon Haber Holloway Architects. The bedrooms are all set up for one person. They are relatively small. Each unit has a living room, a kitchen on the second floor of the building, which is the first floor of the unit, and then upstairs there is three bedrooms and a bathroom. There is also a bathroom on the first floor of the unit. They are set up for single occupancy per bedroom.

Ms. Brown: How tall are the ceilings in the bedrooms?

Mr. Haber: Most likely we will have 9 ft. ceilings in the second floor and 8 ft. ceilings in the upper floor. That is standard.

Ms. Brown: Have they proposed any restriction on occupancy? He said three, one for each bedroom, but I would like to see a restriction in there. You can put bunk beds in each room and have six kids in each unit.

Mr. Charma: Unfortunately, the owner is not here to make a statement to that end, but we want to be treated as fairly as any other project that has been approved recently.

Ms. Brown: Well, I am all for restrictions in all the projects so I am treating you not unilateral. Don't feel offended. I do feel that there ought to be some sort of restrictions – three or four. If the bedrooms are designed for one occupant, they should have one occupant.

Ms. McDowell: I agree.

Mr. Lopata: My recollection is (don't hold me to this) I think the projects on Elkton Road, unless I am mistaken, we have not restricted unless we did the Millyard and Jeff Lang is shaking his head in the back telling me we did, but the others I don't think we did. He had this tight site. That, perhaps, was the logic there. Main Street is where we have done this more. Having said that, if the Millyard was restricted, then you wouldn't be considered grossly unfair to restrict this site as well [Secretary's Note: Mr. Lopata checked after the meeting and found that the 100 Elkton Rd Millyard project was, in fact, not restricted in terms of number of permitted tenants].

Ms. McDowell: I am also thinking if there are more tenants whether they are supposed to park in those sites or not. . .

Mr. Lopata: Right, that is why you would want to restrict it.

Ms. Brown: I also have a question about lighting for security in the back. You have a solid fence in the back, which is good. There is an opening, though, on the other side of the trash. Is that not your property?

Mr. Charma: That is the railroad access easement.

Mr. Lopata: That is there now.

Mr. Charma: That is something we have to talk to the Railroad about, whether they will allow us to put gates there, which I don't think is an unreasonable request.

Ms. Brown: I would like to see some gates there to prevent people from trucking through the railroad tracks.

Mr. Charma: Keep in mind that our property ends there. Kinko's property there is nothing, so you put the fence up and you walk around the end of it.

Ms. Brown: We have a history of people walking over the railroad tracks and getting run over, so I think any impediment to do that is a safety feature. Lights?

Mr. Charma: The parking lot will be lit. This plan does not show lighting, but lighting will be incorporated with the landscaping. Lighting will be appropriately designed so the landscaping doesn't cast shadows and things like that. I know that the Tsionas family is very concerned about security. They have several other apartment buildings in town. Their buildings are well lit and their parking lots are secure. They have security systems. They have limited access into the apartment portion of the building. It is card accessed. I have no reason to believe that they wouldn't continue that here.

Ms. Brown: I am just concerned, for instance, in the back corner, somebody comes in at night and somebody is out there and bops them in the head. You want to be able to see.

Mr. Bowman: Are there any other questions from members of the Commission?

Ms. Dressel: There was just one comment in here somewhere about making the apartments able to be converted to condominiums. Is that in your plan? Did you take that into consideration?

Mr. Haber: Physically there would be no difference between a condominium and an apartment. They are all completely self-sufficient with their own separate heating units. Condominium is just a legal ownership but it doesn't have to be changed on the physical side.

Ms. Dressel: Will it all be sprinklered so that won't be an issue?

Mr. Haber: Yes.

Mr. Osborne: Following up on that same point about the condominium vs. the apartments. I am interested in hearing from Roy because that was one of the comments you made in the Planning and Development Department report. From a Planning and Development Department perspective, what is it about one or the other that the Planning and Development Department is looking for?

Mr. Lopata: We like to be in a position that these units are designed so they are not precluded from converting to condominiums because if you do good long-range planning, the possibility someday is that not every one of these units will be necessarily rented to students. University enrollment might even decrease. The demographics are such if you look into the far, far future that that would, in fact, be something that would be, I think, not only possible, but it is probably likely. We are approving a lot of apartments and we think that they ought to be designed so young couples, professionals, others who may want to buy them, will be able to have an owner occupant stake in them.

Mr. Osborne: So from the designer's perspective and the builder's perspective what would you do differently?

Mr. Lopata: What I am saying is not to do anything to preclude the conversion.

Mr. Haber: The only difference would be the HVAC and the electric. Each apartment will have its own thermostat, its own unit and electrical panel.

Mr. Bowman: We will open it up to public comment. I have no written requests. Is there anyone from the public that wishes to address this item? Please step to the microphone, state your name and address and as I stated earlier, please limit your comments to five minutes.

Mrs. Pamela Beck: I am a realtor with Prudential Fox and Roach in Newark. I am here with Sonya Lesque (sp.?). She is the owner of the property that is adjacent to the east (Kinko property). We are here to see what the impact of this development will be on the property that she owns. Of concern would be the number of parking spaces and the access to the parking spaces with the right-of-way being there between the two properties; also, the fact that the size of the apartments and then the amount of people that are going to be there. I think we have talked about that. So, we would like to know when that decision is going to be made about the permit for the number of occupants in each of the apartments.

Mr. Lopata: The recommendation will apparently be made tonight and then go to City Council. They will make the final determination.

Ms. Beck: Were you asking for a light at the crosswalk or just a crosswalk like on Main Street?

Mr. Lopata: We would like to see the pedestrian bulb outs, but that is not very likely. Crosswalks that we would like to see would be at Beverly and Elkton Roads, which is very close by, and up at the far end at the Buffalo Wild Wings. There will be at least two crosswalks in that long section. That remains to be seen whether DelDOT will do that. That is outside our control.

Ms. Beck: I first thought you were talking about a light.

Mr. Lopata: No.

Ms. Beck: The sides of the sidewalk, how is that going to be done because we are right in between the two properties where the sidewalk is five feet now or is that still narrow?

Mr. Charma: If you look at the plan, we are only proposing the sidewalk being wide in front of our building, but it goes back. This is the five foot sidewalk. That is the standard DelDOT sidewalk width.

Ms. Beck: Because I think one of the concerns was the traffic from Buffalo Wild Wings to this new development . . . We would like to have a copy of the plans so that we can take a look.

Mr. Charma: You could come to City Hall and the plans are right there in the Planning and Development Office.

Mr. Lopata: Joe, you are going to submit a revised plan, so when that gets in, yes, because the plan we have doesn't match what is up on the bulletin board.

Ms. Beck: You mentioned about the dormitories being removed.

Mr. Jeff Lang: 13 Spring Water Way. I consulted real quick in the back about the comment with regards to the Millyard, and I do believe it did not have a restriction.

Mr. Lopata: I wondered when you shook your head yes.

Mr. Lang: I was remembering 102 and 257 E. Main Street, which are the most recent projects, but Karen pointed out that it wasn't. One other quick thought about this project. I do think this is a nice building, a nice addition to the street, and with regards to the sidewalk, we are very concerned about the safety and I was involved in the same meeting that Roy and Joe were, and one of the things that DelDOT required us not to do, and you will notice if you walk up and down in front of our new building, they didn't want us to replace all the sidewalk there because they were going to tear it all up and realign the

curb. So, if you did happen to walk out there while you were looking at this project and wonder why we have a piecemeal kind of four feet, five feet, four feet, five feet, any of the areas that we had to replace curbing we put five foot sidewalk in but we were not allowed to actually put five foot in. They told us not to do it or they wouldn't give us our approval because they were going to come in and tear it all out. We actually had to give them money instead that they were going to use to redo part of the sidewalk.

Mr. Lopata: There was some logic to that. It wasn't totally crazy.

Mrs. Jean White: 103 Radcliffe Drive. I presume because of the Kinko's building is here tonight all neighboring property owners received notices of this meeting. I wondered if CSX had replied in any respect whatsoever so far.

Mr. Lopata: No. But everyone within 300 feet of the property received a notice.

Mrs. White: And the Railroad objected to the residential units at the Granary project for the reasons that Mr. Begleiter has talked about because around the country there is an effort not to put residential next to freight that carried all kinds of things some of which are toxic in case there were spills.

I want to commend Joe Charma and those he worked with for making a wide sidewalk now. I had measured when I was out at the Park 'N Shop shopping center further down on Elkton Road and that is 11 feet wide and it is very lovely to walk there because two people can pass two other people. It is nine feet wide if you count the post. So, this is a good improvement and I applaud that change. I think it will also have the affect because this is a tall building and a very long building that little bit of a setback will add to its look.

I am going to jump to something I am concerned about and that is the flow of traffic on the northeast side, this area between Kinko's and the Eagle Diner building. I am very familiar with this area because I go very often to Kinko's to copy things and do other types of things and do other types of things as well as occasionally going to Eagle Diner, and so the pathway to get in (inaudible). . . I would say 90% of the people who use Eagle Diner or Kinko's use that flow. If they don't use it, it becomes a problem because somebody might be trying to go out when somebody else is coming in. But, this is the flow and it has worked very well. Now, what I want to know are people who use Kinko's still able to come around here and are the users of the Eagle Diner building and all the apartment residents, are they going to be coming in here or is there now going to be two-way traffic close to the new building which I think is going to add great congestion. When I looked at your plan, which I did look at pretty closely, I did not see arrows that indicated the traffic flow.

Mr. Lopata: Jean to answer the first part of your question, Kinko's will still have the right to use the traffic flow back and forth. They still will be able to go back and forth between the projects. That is going to continue.

Mrs. White: That is because of a different type of arrangement?

Mr. Lopata: That has nothing to do with CSX, they all have formal agreements that Joe needs to formalize. Let me make one quick comment before Joe talks. One of the highlights of this plan that I think is a benefit to that area is the building on the other side. It is eliminating curb cuts. We have way too many curb cuts on Elkton Road.

Ms. White: You are talking way down on the other side of Pat's Pizzeria.

Mr. Lopata: Absolutely, but that is part of this site. By concentrating traffic flow in and out in one location, I think, overall that is a better thing.

Mrs. White: I am not focused on that because I never use the part down there, but I guess I am concerned, what does the developer consider where most or all of the customers and the residents will enter?

Mr. Charma: The same traffic flow that exists currently will exist in the future. In other words, it will be a right in on the access point that is adjacent to Kinko's. That is what happens now. Space configuration is very much the same, however, the isles are widened out to create better access and the building is pushed to the west. So, it is a right turn in and right turn out. We are trying to keep it simple. That is what I sent to DelDOT. DelDOT is currently evaluating our proposal.

Mrs. White: The one thing I see now when people are there, I do see it is an advantage to eliminate the parking next to the Eagle Diner building but by having (inaudible) in the middle lane you can pull in and immediately pull out. Now, people are going to have to go in and they are going to have to back out and they are going to be backing out where cars are coming down.

The other question I had was, once we get past this island is the resident allowed to go either down this way or that way or is it going to be one way around these islands to find a parking place. Can you choose what you want or is there going to be a circulation?

Mr. Charma: The parking lot is designed as two-way traffic in all directions so the driver is free to go whatever way they want. No matter what you tell people, they are going to drive the way it suits them best and is the easiest. I think people will figure it out, but it is designed to accommodate traffic flow in both directions.

Mrs. White: I wanted to thank the owner of the Kinko's property who I presumed was involved with the recent repaved patch because many of us who went there got caught in the huge pothole that was there. I did wonder since half of this is going to be repaved whether the Kinko's owner or maybe Kinko's FedEx office itself would want to do all the paving at once rather than have a more dilapidated . . .

Mr. Bowman: That is not relevant to what we are talking about tonight and I have been generous in letting you go three minutes over. So, would you please conclude your remarks.

Mrs. White: I did not understand at first that the easement to CSX that actually owned by CSX.

Mr. Lopata: It is part of their parcel.

Mrs. White: It cuts across parking spaces and it cuts across a transformer.

Mr. Lopata: It has been that way for generations.

Mrs. White: The one thing that mars what is a nice looking building are the wires going back and forth and even more than the electric wires are the Verizon wires, which have these big black boxes. There are going to be more of them once it is made for residential.

I'll make a comment on the building and then a comment on the number of occupants. I would like to support limiting it to four unrelated persons. Whether or not this has been done in other buildings on this street, I think that discussion has happened and now that we are putting so many residential I think that is important to do particularly since the parking is exactly meeting the Code but it is only two per apartment and one can actually envision that there might be two of those residents in a unit that might have cars.

Finally, I wanted to say that I like the design of the building. I think the square end towers are particularly attractive at the northeast end and the southeast end. I like the inset of the three panels (inaudible). I am wondering whether that inset comes all the way done to the entrance. You can answer that later. I think that would help to break it up. I like the fact that only the entrances have awnings but not awnings over the windows and the precast concrete accents. I do wish that the very long roof – you do have the gables of these panels – but I wish the long roof could somehow have some breaks in it because that is basically what people are going to see. This building is 190 feet long. It is a very long building. I think it is justified because it is better to look at a

building than a parking lot near to Pat's Pizzeria. I think the setback will help. I am glad that the entrances are flush with the sidewalk and there are not steps that have to go up to the building.

Mr. Bowman: Is there anyone else from the public wish to comment? If not, we will bring it back to the table. Are there any further questions for the applicants or for the Planning Director.

MOTION BY BEGLEITER, SECONDED BY DRESSEL THAT THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

- A. THAT CITY COUNCIL APPROVE THE REZONING OF THE 1.165 ACRE 136 ELKTON ROAD PROPERTY FROM BC (GENERAL BUSINESS) TO BB (CENTRAL BUSINESS DISTRICT), AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED JULY 7, 2009;
- B. THAT CITY COUNCIL APPROVE THE 136 ELKTON ROAD MAJOR SUBDIVISION PLAN AS SHOWN ON THE LANDMARK ENGINEERING PLAN DISPLAYED AT THE COMMISSION'S JULY 7, 2009 MEETING, WITH THE SUBDIVISION ADVISORY COMMITTEE'S SUGGESTED CONDITIONS; WITH THE ADDED CONDITIONS THAT THE PLAN BE REVISED TO SHOW PARKING AREA LIGHTING, AND THAT THE DEVELOPER VOLUNTARILY AGREE TO DEED RESTRICT THE PROPERTY TO LIMIT THE MAXIMUM NUMBER OF TENANTS RESIDING IN EACH UNIT TO ONE SINGLE FAMILY OR FOUR UNRELATED INDIVIDUALS; AND,
- C. THAT CITY COUNCIL APPROVE THE SPECIAL USE PERMIT FOR APARTMENTS IN THE BB DISTRICT, AS SHOWN ON THE LANDMARK ENGINEERING PLAN DISPLAYED AT THE COMMISSION'S JULY 7, 2009 MEETING.

VOTE:7-0

AYE: BEGLEITER, BOWMAN, BROWN, DRESSEL, McDOWELL, OSBORNE, SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

1. REVIEW AND CONSIDERATION OF THE MAJOR SUBDIVISION, SPECIAL USE PERMIT AND PARKING WAIVER OF THE 129 E. MAIN ST. .173 ACRE PROPERTY FOR A THREE-STORY COMMERCIAL /RESIDENTIAL MIXED USE 5,000 SQ. FT. "FOOTPRINT" FACILITY WITH SIX UPPER FLOOR APARTMENTS.

Mr. Lopata summarized his report to the Planning Commission that reads as follows:

"On April 30, 2009, the Planning and Development Department received applications from the Lang Development Group and C. and E. Holding Company for the redevelopment of the property at 129 E. Main Street. The applicants are requesting major subdivision and special use permit approval to demolish the existing two-story Formal Affairs building, owned by C. and E. Holding Company, and replace it with a commercial/residential mixed use facility including six apartments on its second and third floors. The applicants are also applying for a required BB zoning 12 space parking waiver.

Please see the attached Landmark Engineering development plan, applicant's supporting letter, and building elevation drawings.

The Planning and Development Department's report on the 129 E. Main St. project follows:

Property Description and Related Data

1. Location:

129 E. Main Street; approximately 120 feet west of the Haines and E. Main Street intersection.

2. Size:

.173 acres.

3. Existing Land Use:

129 E. Main St. contains a two-story approximately 5,000 square foot retail building that is currently occupied by Formal Affairs. A small City sculpture – “Recognizable Something” – is located on E. Main St., in front of the alleyway along the east side of this building.

4. Physical Condition of the Site:

129 E. Main St. is a developed site containing a two-story building.

In terms of topography, this site is quite level, with a slight slope from its highest point on E. Main St. toward E. Delaware Avenue.

Regarding soils, according to the subdivision plan and the United States Department of Agriculture's Natural Resources Conservation Service, the 129 E. Main Street property contains Matapeake-Sassafras Urban Land Complex soil. The Natural Resources Conservation Service indicates that this is a disturbed soil that has been used for development purposes; no development limitations for the proposed uses are indicated.

5. Planning and Zoning:

The 129 E. Main Street site is zoned BB. BB is our central business district zoning that permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.
- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.
- H. Repair and servicing, indoor and off-site of any article for sale, which is permitted in this district.
- I. Related indoor storage facilities as accessory uses with special requirements.
- J. Accessory uses and accessory buildings.
- K. Public parking garage and parking lot.
- L. Public transit facilities.
- M. Social club, fraternal, social service, union and civic organizations, except on ground floor locations.
- N. Photo developing and finishing.

BB also permits, with a Council granted Special Use Permit, the following:

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curb service for other than eating establishments.

- C. Fast-food restaurants with special requirements.
- D. Motels and hotels.
- E. Commercial in-door recreation and in-door theaters.
- F. Instructional, business or trade schools.
- G. Electric gas and telephone central offices and telephone central offices and substations with special requirements.
- H. Tower, broadcasting or telecommunications on existing buildings or structures with special requirements.
- I. Police and fire stations.
- J. Library, museum and art gallery.
- K. Church or other place of worship.
- L. Restaurant, cafeteria style.
- M. Apartments, except on ground floor locations, with special requirements.
- N. Restaurants with alcoholic beverages, with special requirements.

Regarding BB zoning area requirements, other than for off-street parking, the proposed subdivision and special use permit plan meets all the applicable Zoning Code specifications.

Regarding nearby properties, the site under review here is adjacent on its eastern boundary on E. Main St. to BB zoned properties that contain the Crystal Concepts retail store, the Main St. Florist, and the Newark Diner property, now undergoing renovation and mixed use expansion. The land west of the site contains the three-story mixed use BB zoned commercial residential building. The BB zoned mixed use Washington House commercial/owner-occupant condominium facility is located on the west side of the adjoining 123 E. Main Street building.

Regarding comprehensive planning, Comprehensive Development Plan IV calls for “commercial (pedestrian oriented)” uses at this site. In addition, the Plan’s Downtown Economic Enhancement Strategy suggests “Downtown Core District” land uses for this site. The Strategy describes the district as:

“ . . . an area to be redeveloped with first floor specialty and traditional retail shops, with a balanced concentration of food and entertainment. Apartments and offices are proposed for upper floors. Any additional apartments, however, must be carefully and closely evaluated in terms of their impact on downtown traffic and parking; the compatibility with existing downtown buildings in terms of design, scale and intensity of development; the contribution of the overall project, including proposed apartments, to the quality of the downtown economic environment; and potential significant negative impacts on nearby established businesses and residential neighborhoods. Beyond that, and particularly to encourage owner occupancy, the City may consider reducing the permitted downtown density in the projects in this District for residential projects.”

Also regarding comprehensive planning, the Downtown Economic Enhancement Strategy, also includes the stipulation regarding the City’s review of mixed use development projects that:

“ . . . the intent is to make it abundantly clear that the City seeks positive impacts from such residential uses. One key positive impact for an individual project, for example, might include the potential at the site for affordable housing for owner occupants.”

Regarding gross residential site density, please note that the 129 E. Main Street major subdivision, special use permit plan and parking waiver calls for 34.68 dwelling units per acre. By way of comparison, the density of the adjoining Washington House project is 36.1 units per acre, and the densities of the nearby similar developments of 102, 108 E. Main Street and 137 E. Main Street are 20.83, 14.7, and 24.0 units per acre respectively.

BB District Off-Street Parking Option Procedure

The BB district off-street parking waiver program, adopted by the City to encourage quality pedestrian oriented development downtown, stipulates that the Planning Commission can reduce or waive the off-street parking standards in Zoning Code Section 32-45(a) after considering the following:

- “A. Whether the applicant has demonstrated the proposed use does not conflict with the purposes of the Comprehensive Development Plan of the City;
- B. Whether the applicant has demonstrated that the proposed use conforms to and is in harmony with the character of the development pattern of the central business district;
- C. Whether the applicant has demonstrated that the proposed use is not highway oriented in character or significantly dependent on automobile or truck traffic as a primary means of conducting business;
- D. That the proposed use will not adversely affect the health or safety of persons residing or working in the vicinity, will be detrimental to the public welfare, or injurious to property improvements in the vicinity;
- E. The Planning Commission may also consider the availability of off-street parking facilities, the availability of nearby adjacent public parking facilities (within 500 feet0 that may be shared by the applicant and an existing or proposed use. In considering this subsection the Planning Commission may require that the applicant submit an appropriate deed restriction, satisfactory to the City, that ensures either the continued validation of and/or the continued use of shared parking spaces in connection with the uses and structures they serve;
- F. The Planning Commission shall consider the advice and recommendation of the Planning Director.

Please note also that the BB zoning parking waiver procedure permits City Council to review, modify, or deny Planning Commission approval, disapproval, or approval with conditions upon the recommendation of a member of City Council, the Planning and Development Director and/or the City Manager.”

Regarding the requested 12 space parking waiver, our procedure specifies that applicants receiving such approvals must make an “in lieu of spaces” payment to the City to be used to improve parking downtown. The required payment for the requested waiver, based on a recently updated estimate of the cost of construction of surface level parking spaces provided by the Public Works Department (\$5,833), is as follows:

<u>Number of Spaces</u>	<u>Payment Required</u>
Five (5)	\$ 1,458.25 (5% of cost)
Six to Twenty-five (7)	<u>20,415.50</u> (50% of cost)
Total:	\$21,873.75

Please see the applicant’s supporting letter regarding the required commentary concerning this request for a parking waiver, including a reference in the letter to the possibility of adding six parking spaces, “at an adjacent property directly behind 129 E. Main Street.”

Status of the Site Design

Please note that at this stage in the Newark subdivision and review process for projects fronting on Main St., applicants are required to show the general site design and architectural character of the project. For the site design, specific details, taking into account topographical and other project features, must be included in the construction improvement

plan. For architectural character, the applicants must submit at the subdivision plan stage of the process color scale elevations of all proposed buildings, showing the kind, color and texture of materials to be used, proposed signs, lighting and related exterior features; and, in addition, contextual color scale elevations showing the front Main St. facades of all buildings immediately adjacent to the property. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan must be referred back to City Council for further review and approval. That is, initial Council subdivision plan approval means that the general site concept and the more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision parameters, to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision plan and agreement for the project.

Be that as it may, the development plan for 129 E. Main St. calls for a proposed new building at Main St. to replace the existing Formal Affairs two-story building with a three-story 5,000 sq. ft. footprint facility with commercial uses on the first floor and six upper floor apartments. A pedestrian walkway is shown east of the proposed new building providing access to the proposed upper floor apartments. The new building is setback somewhat from the location of the current facility to allow for a future tenant's outdoor dining patio on E. Main Street. According to the applicant's supporting letter, the apartments will be designed so that they can be converted to condominium units in the future. At the outset the units are proposed to be rented.

Please consult the applicants' submitted building elevation drawings and supporting letter for additional information concerning the proposed site design.

To evaluate the proposed architectural design, the Planning Commission should consult the Design Criteria in Municipal Code Chapter 27, Subdivision and Development Regulations, Appendix XIII(d).

Please note in this regard, that on a voluntary basis, the applicants reviewed the originally proposed building elevation drawings with the Downtown Newark Partnership's Design Review Committee. The Committee recommended in favor of the project and noted, in particular, that the front façade, "shows respect to the design of the original house." The Committee also suggested that the site elevations use stucco at a "logical break" from the proposed siding, which they also like as a, "variation along Main Street." The elevation drawings now before the Commission reflect the applicant's response to these comments.

Subdivision Advisory Committee

The City's Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the proposed development plan and has the comments provided below. Where appropriate, the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Planning and Development Department notes that the proposed mixed commercial and residential land use at the site follows in general recently approved downtown development projects. On the other hand, the proposed density of almost 35 units per acre corresponds most closely to the owner-occupant Washington House Condominium project rather than the less dense rental apartment developments. We believe, therefore, that to correspond directly to the updated land use guidelines for downtown residential redevelopment at this location on Main St., as described in Comprehensive Development Plan IV, the Planning Commission may wish to consider rental tenancy restrictions similar to those utilized at Washington House. One possibility, for the Commission's consideration, would be for the Commission to recommend as a subdivision and special use permit condition that for a six unit building the dwellings be limited to no more than two tenants per

- unit each in the building if they are leased or sub-leased. The intent is to encourage condominium ownership of the units. Otherwise, the number of units should be reduced to a maximum of four rental dwellings, with four tenants each.
2. The Planning and Development Department also suggests that the Planning Commission recommend as subdivision site design conditions the following:
 - The architectural design for the facades of the proposed building should be carried out on all building elevations visible from public ways.
 - Storage areas, mechanical and utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with a proposed and existing architectural design.
 3. The Planning and Development Department also suggests that the Planning Commission recommend the “Recognizable Something” sculpture on the northeast corner of the property be incorporated into the site plan so that it can continue to be visible from Main St. without interfering with proposed access to the site.
 4. The Planning and Development Department suggests as a condition of approval, to limit the impact of the proposed apartments on downtown parking, tenants shall be informed in writing that no off-street parking permits will be available from the City for their use.
 5. Regarding utilities, the Public Works Department indicates the following:
 - The applicant should review with the Department requirements and limitations within the 10’ utility easement [which should be shown on the plan] located at the east side of the proposed building.
 - Similarly, the applicant should review easement requirements regarding utilities installed for the adjoining 123 E. Main Street project on the west side of the new building.
 - Existing water and sanitary sewer laterals should be shown.
 6. Prior to any submittal of construction improvement plans for the site, the applicant should review other technical requirements with the Public Works Department.
 7. The Electric Department indicates the following:
 - Electric service to the building fronting on E. Main St. will be available from the pole at the corner of the property. The building on E. Delaware Avenue will be served from a pole in front of the proposed building.
 - Fees of \$100 for each apartment meter; \$350 for each commercial meter and \$6,500 towards the cost of aerial transformers and pole rearrangements will be assessed for the project.
 - In addition, the applicant will be required to pay for all costs for the electric service relocation resulting from the required removal of the pole serving the adjoining building to the east.
 8. The Parks and Recreation Department indicates the following:
 - The existing street tree will need to be protected during construction.
 - The patio space shown in front of the building should be reduced in width to limit its proximity to the street tree.
 - The landscape plan is recommended for approval.
 9. The Building Department notes that all new construction will be required to be protected by fully automatic sprinkler and fire protection systems. The plan will be required to meet all International Building Code and Fire Code requirements.
 10. The Water and Wastewater Department indicates the following:

- The applicant should review the water service size with the Department.
- The existing sewer manhole on E. Main St. will be required to be brought up to current standards in order to make the required tie-in.
- An STP fee will be required through the certificate of occupancy process.

11. The Police Department has raised concerns regarding adequate parking for the residential tenants.

Recommendation

Because the proposed 129 E. Main Street development, with the Subdivision Advisory Committee recommended conditions, will not have a negative impact on nearby and adjacent properties, because the project, with the recommended conditions, conforms to the recommendations in Comprehensive Development Plan IV, because the plan meets all applicable Code requirements, and because the proposed use conforms to the development pattern in the nearby area, the Planning and Development Department suggests that **the Planning Commission take the following action:**

- A. Approve the requested BB zoning district 12 space parking waiver, as shown on the Landmark Engineering, Inc. plan, dated April 29, 2009, with the conditions in this report;**
- B. Recommend that City Council approve the 129 E. Main Street major subdivision, as shown on the Landmark Engineering, Inc. plan, dated April 29, 2009, with the conditions in this report; and,**
- C. Recommend that City Council approve the 129 E. Main Street special use permit for apartments, as shown on the Landmark Engineering, Inc. plan, dated April 29, 2009.”**

[Secretary’s Note: The Commissioners and public referred to visuals brought by the applicants for their presentation to the Planning Commission].

Mr. Bowman: Do any members of the Commission have any questions for the Planning and Development Director?

Mr. Begleiter: The patio space recommendation, is there some reason why the only option suggested is to reduce the width of the patio rather than set back the building further?

Mr. Lopata: That is one option. Setting the building back further gets into the question of lining up buildings which we like to do insofar as possible. As you may recall, someone I know quite well was interested in that on the other side of the street.

Mr. Begleiter: And it didn’t happen.

Mr. Lopata: It happened.

Mr. Begleiter: It happened to some extent. So, we are interested in it to some extent.

Mr. Lopata: I am saying that that is something that we normally think is a good idea, but that issue did not come up, to answer your question, Ralph.

Mr. Begleiter: So, there wasn’t any particular reason why it would have to be reduced in width.

Mr. Lopata: The Parks Department was concerned about the tree.

Mr. Begleiter: You didn’t make a recommendation on the sculpture. Do you have one?

Mr. Lopata: We have to figure out something and they may have an answer to that.

Mr. Begleiter: What is the status of the sculpture now.

Mr. Lopata: It was donated to the City.

Mr. Begleiter: And it got put there by virtue of the goodness of the hearts of the owners of the property?

Mr. Lopata: We would like figure out a way of keeping it either there or somewhere else. We figured it would be negligent if we didn't mention that it was there and doesn't show up on the plan.

Mr. Begleiter: I agree.

Mr. Lopata: I don't have a solution off the top of my head.

Mr. Begleiter: That's why I wondered if you had a recommendation on that. I'll ask the developer whether he has a recommendation when the time comes for that.

Mr. Bowman: Anyone else? Okay, the applicants are here. Step to the microphone.

Mr. Jeff Lang: 13 Spring Water Way. This evening we have Joe Charma who is our engineer, Dan Hoffman with DCI as architect, and Chris Locke who is presently the property owner of the site and the owner and operator of Formal Affairs for many years here in Newark. He continues to operate his building out of it. The building is in need of significant repair and upkeep. Part of the discussions we have had over the recent year or years is what would be the ultimate best use for this parcel. Chris wants to maintain his business on the street. And one of the thoughts obviously would be to renovate the building, move Formal Affairs temporarily into another location and then move them back into the first floor of this building. So, the idea with the building was really to replace the existing building with a building with a similar footprint which is what has been proposed. Part of that design would be to incorporate a nice pedestrian walkway to access the back parking area, very similar to the walkway that exists presently between the Washington House and 123 E. Main. At present, this access way is not really opened up. There is a fence in front and sculpture and a majority of people walk up and down an alleyway which is not a very safe alleyway. I happen to drive and walk down that alleyway many times during the week myself. The idea here is to create more of a pedestrian access way, and as Roy pointed out, there was potential development accompanying this project which would have been on Delaware Avenue and tied these two sites together. It became a little more cumbersome to understand how that all could work. So, at present, we are proposing the redevelopment of just this parcel. At some point in time we might get together with one or two of these adjoining property owners down here and develop a new streetscape for Delaware Avenue tying the parking from Delaware Avenue all the way to Main Street through a better pedestrian access similar to what happened here except when you get to the end where you can't get to Delaware Avenue without walking into the driveway. Ultimately, we hope that that would be the case.

As Mr. Lopata discussed, we are proposing a 5,000 sq. ft. building, and to get to the six units, we didn't just come up with six units as being a logical amount that we wanted. It really is a function of the square footage and how the building is going to be designed. We didn't say we wanted six units and let's design the building. We have the building footprint and then we designed the building and came up with the proper unit count. The units are laid out to approximately 1,400/1,500 sq. ft., which is a nice size unit for an apartment unit. It is a nice size unit, potentially, for condominium use. If you did create a four unit complex here, the concern I would have with four units, you are going to have four units of approximately 2,500 sq. ft. When you get a 2,500 sq. ft. unit, it tends to create a lot of common space which creates a lot of potential management issues. We have a number of units in and around the City and we figured out the size units that seemed to work best from a financial perspective. One of the features we figured out here, obviously, is we had direct access to the street minimizing common hallways, which we've talked at Commission and Council as being a concern from a management perspective. Obviously, proposed unit size lends itself better to management also as far as occupancy, common space with a unit, common space within a building. Ultimately, that is how we came up with six units.

The parking waiver, obviously, is related directly to the occupancy of the six units, two spaces per unit, 12 spaces, that is the parking waiver concerned. The parking that Roy also mentioned, there is the possibility of utilizing this parcel here, which we also own to accommodate some of that parking. It doesn't make a lot of sense to me to knock a house down to put in 12 parking spaces if we are going to tell the tenants of the residential units

that we are not going to give them parking. So, the parking waiver really is a function of how we write our lease. If we don't provide parking then the residents don't have the need for the parking waiver, which obviously, is more a function of the Code, which Joe talked about for the last project.

We listened to some of the concerns from the Commission and concerns from the Design Review Committee when we came up with the architectural layout of this building. We wanted to mimic a lot of features of the present structure. We came up with a building that, hopefully, incorporates a lot of the look of the existing structure. We used brick just on the first floor. We have siding on the upper floors, which when we went to the Design Review Committee we talked at length about incorporating what materials in the building that they would like to see, stone, siding, stucco and ultimately, the discussion led us to this design. We think the massing of the building seems to make sense given the fact that it is next to a three-story building and the right at the corner with the newly constructed 137 E. Main Street, which is a three-story building. So, the massing of the building seems to work very well within the rest of the block. Being a small infill project, obviously, it is not a significantly sized building but I do think it fits well with the other structures adjacent to it.

The discussion with regards to the setbacks on the street – the patio area. -- actually, the building sits technically six feet in front of the where the building is now. So, we are actually stepping the base of the building back. The porch area really extends back to where the existing fronts. So, if you are walking down the street, the front post of the building will be pretty much in line with where the existing building is presently, but the building face will be back about six feet. It is actually stepped back to create the small patio area that was discussed.

Chris Locke: 604 Cambridge Drive and also the owner of 129 E. Main Street. In regards to the "Recognizable Something" we are definitely going to keep the sculpture. I have been in this business for 22 years. I have been at this location for 15 years. My kids have grown up in this building. I have six kids. My four year old and seven year old love that sculpture. We will make sure that sculpture is somewhere on the property because it is something that is important to the family.

In regards to the proposal by Mr. Lopata about six condos/four apartments, being involved in the condominium project of Village of Twin Lakes, I can tell you right now the condo market is extremely difficult both in the sense of buyers financability of it as well as developer's financability of it. Ideally, we would like to have the six apartments right now. They are designed to be converted to condominiums later one. I think that is a better possibility for this property long-term because banks will look at how many units there are. I think that having the apartments at this point and having the rights to convert it later is a little bit more palatable. Also looking at other properties, I think six units do blend in with all the other surrounding properties. Of course, you have the large apartment building next to us. You also have Crystal Concepts which is a very small building probably one fourth the size of my building. They have two apartments. And then Newark Florist which is about half the size of my building has two apartments right now. I think six is reasonable. When we look at the property at the Diner, they have six units that are being built currently. I think it is somewhat conforming. I know it doesn't meet the density ratios but overall in the neighborhood I think it blends in quite well.

We did design it, as you can see in the pictures, with a very residential feel to it. I heard the comments about no more red brick. The Design Committee wanted us to do something really unique and I think this is a unique property. It was very important to me because I am sentimentally attached to the existing building that we remember the existing building. I think we did that architecturally with the design.

Mr. Bowman: Any questions for the applicants from the Planning Commission?

Mr. Osborne: I think I know the answer but this is more of a clarification question. It looks like the alleyway between 123 and 129 E. Main Street is going to be narrower than it is today. Today, I believe you can fit a vehicle through it. I think it is for exit only out onto Main Street. So, that is going to be narrower and is going to be limited to pedestrian traffic?

Mr. Locke: Right now you have cars going in and out so it is somewhat dangerous. (Inaudible).

Mr. Osborne: So that will mean that to get to the Learning Station and the stores that are in 123 E. Main Street, they will pretty much have to use the Delaware Avenue entrance and exit, which isn't a problem I don't think, but I just want to clarify.

I think that the landscaped area on the left side of the building with the porches that look like they cover the entranceways to the units. Are there two doors per under each porch? That makes six. I think the landscaping there looks attractive. It is almost like a little English garden or something like that in between the two houses that you don't see on Main Street.

I know if I don't ask this, I'm sure Ralph will, but I am not seeing any electric wires in front.

Mr. Begleiter: They got away with a technicality, Rob. The utility pole is not on their property so they don't have to show it. They have done a nice job of photoshopping them out of the photograph of the adjacent property so it would be right above the beautiful pedestrian access way.

Mr. Lopata: They are on this plan. I made sure they had them so you could find them.

Mr. Osborne: Is it fair to say then that this architectural rendering is not exactly accurate. It should represent the poles in front. It is not the intention of you to bury the lines

Mr. Begleiter: I just have to ask this. You have decided in this case to setback Jeff's building to provide this beautiful awning and the patio space out in front and all that, and the building front line as you just eloquently explained is isn't any longer in line with the adjacent buildings, but you decided to set it back further because you think it is a really nice thing to do, and I do too, but why was it appropriate to do it here but not to do it in the CVS case across the street?

Mr. Lang: That was an existing building. We are actually tearing this building down so if we were keeping this old building, I could argue that there might be some logic behind keeping the front walk. There is actually more walking area in front of the CVS than there is on this side.

Mr. Begleiter: So, you are generously creating more walk area here so that it can be filled up with a patio/restaurant at some point in the future.

Mr. Lang: If you put a porch on the front, you would be sticking out much further than you would like so we had them step it back if we were going to put in that architectural detail, which is in line with what the old building used to look like. So, that's why we did it.

Mr. Begleiter: I think you have done a fabulous job of designing this building to look both unusual and stand out on Main Street as well as provide a kind of residential relief even though it is not a residential project, certainly not a new residential project, but you have done a nice job with that and I commend you for that. One thing you might think about at least, I'll just say it for the record, actually setting the building back maybe another foot might satisfy the Parks Department and give you the opportunity to put the sculpture on the corner where the landscaping begins and the walkway begins to the back. It would be a very inviting kind of thing that leads people from around the front of the building around into that landscaped walkway.

Mr. Lopata: They are shaking their heads, "yes."

Mr. Begleiter: Let the record show. You say it, you get committed. I think your explanation for the management reasons for the six units makes sense to me, both the current management reasons as well as the future investment condo conversion reasons. So, I am going to actually recommend that we are going to limit you to two people per each of six units. I would like to hear your comment on that.

Mr. Lang: The limitation associated with occupancy restriction dictates, not so much to me running the building, but dictates a lot to an appraiser and a bank who is going to underwrite the project because they will get relative occupancy within other units. If you look at all the comparable apartments across the entire market and we have varying different levels of apartments, if most apartments are deed restricted before, if there is a restriction because many are not restricted, if you restrict a unit to potentially half of that, they could potentially

lend us half of the amount of money we would normally get for a project. You can't then build a project even if you have two, three or four people in it. Because if you have the flexibility to have four people, you could potentially have different rent dynamics that make the project work from a lender's perspective because the lender is always worried about what happens if I get it back. If the lender gets a project back, what is he going to do with it? He isn't going to run it. He is going to give it to a management company and say run this for me. The management company is going to say with two people I can only get X amount. The dynamics of that are very difficult.

Mr. Begleiter: But, it saves you the money of having to destroy that building to create the six extra parking spaces.

Mr. Lang: I think the long-term parking solution is a bigger discussion than this little project because I know the City is working on a parking garage, we have looked at the viability of parking garages or parking facilities at parcels we own. At some point, the parking discussion associated with downtown residential units is going to be alleviated due to the fact that demand is going to force someone to build something. So, the parking waiver is a thing that we are going to work ourselves through. I think the City has already started thinking about it. From an overall financability of the project, if we are restricted to two occupants, I don't know if we could get the building to feasibly be financed. Now, we might have two people in some units but to restrict two people in every unit is a very difficult way for us to do the project.

Mr. Bowman: Let me point out, Ralph, that we have pretty much stuck with four as the restriction on Main Street.

Mr. Begleiter: But if we did four units at four people, that is 16 people occupying a smaller number of parking spaces. I think their argument over having the six units is a good one for management reasons and future condo conversion reasons if anybody is sincere about ever imagining them being condo. I think those make sense.

Mr. Bowman: Does anyone else on the Commission have any questions or comments for the applicant?

Ms. Dressel: I would like to commend you again on the design of the building and the materials. It looks beautiful and it definitely has the feel of the current building which I think is wonderful to try to continue that. I also like the idea that you put in the bay windows. I think that adds a lot to the character of the building and to carry it out all down the side of the building. I think is fabulous and you are to be commended for that. I think pushing the building back in order to have the awning makes Main Street much more inviting. I have concerns about the number of occupancy, so, hopefully, we will have a discussion about that amongst the Commission.

Ms. Brown: What kind of siding are you using on this?

Mr. Dan Hoffman: DCA. We haven't really gotten that far into what the materials would be, but my guess would be some kind of hardy plank, some composite board. It looks like you painted it but there is less maintenance.

Mr. Brown: And longevity. It doesn't ripple off like aluminum or vinyl.

Mr. Hoffman: Paint sticks to it better.

Ms. Brown: These units that are you talking about, what is the square footage of each of the units in the building? If you are going to do six, what is the square footage? If you are going to do four, what is the square footage?

Mr. Lang: It is a 5,000 square foot footprint and we have approximately 1,500 square feet a unit, but it is a two-story unit. You have to have a stairwell within the unit. They are probably about 1,300/1,400 square of livable space in a unit. If there are four units, you would have 2,500 which you would deduct a little bit for the hallways, but you would have fewer stairs in theory so you might have 2,300 square feet per unit, which I think is far in excess of the size you would want to have for an apartment. 2,300 square feet is like a house. We have a number of apartments in other buildings like 102 E. Main Street. The units are about 1,000 to 1,100 square feet. At 108 E. Main Street they are proposed to be

somewhere around 1,200 – 1,350 square feet. With a two-story unit you can have a little bit more square footage because you lose some square footage the way you lay the unit out. If the units get too big they become the source for the gathering place for everyone's friends. Then we end up having the problem because everyone's friends leave out that alleyway and there will be cups and bottles and junk everywhere.

Ms. Brown: How many bedrooms are you planning in each unit if you do a six?

Mr. Lang: We have preliminary designs but usually what you have is either a two or a three bedroom unit. So, it depends on how the first floor lays out with the width. But usually the first floor is your living room, kitchen and potentially either a small bedroom or a den or a bigger living room. A lot depends on the width of the building and depth of the building. I would think that preliminarily they are either two or three bedroom units.

Ms. Brown: Would any of the bedrooms be "en suite" with a bath?

Mr. Lang: If we have the capability of having its own bath, yes, we would try to do that.

Ms. Brown: I am thinking of future condominium sales.

Mr. Lang: The upper floor would typically have two bedrooms and two bathrooms.

Ms. Brown: If we did restrict the number of people, what is financially viable? Is three viable?

Mr. Lang: The concern you have is that we have units that have restrictions. Some of those units have two, some of them have three, some of them have four. We usually average 3.3 or 3.4 occupants per unit in a smaller unit building. So, if you said all of them are three, all it does is hamstring you from having two in one and four in another and that is where Roy in his wisdom in the past has said let's try to look at an aggregate tenancy in the building vs. an individual unit tenancy, which actually really is an easier way to run the building because if I have two people who want to live together that's great but if I have four people that want to live together and I say they can't live there.

Mr. Lopata: In this case, you could do either 24 or 18 total or whatever number you want to pick.

Ms. Brown: What I am asking you is that financially viable?

Mr. Lopata: He is going to tell you more is better.

Mr. Lang: Banks are more difficult to borrow money from now, so if they can find a reason why they don't want to lend you money, the more restrictions that are placed on a project, the more difficult it is. I would think it would be a concern from the lender's perspective.

Ms. Brown: Are you using real bricks?

Mr. Lang: Yes, real bricks.

Mr. Charma: I would like to make a comment regarding the occupancy. I believe the number is one person per 300 sq. foot. That is the IBC occupancy rating which, based on what Jeff was just talking about, the actual usable square footage about 1,300/1,400 square feet. That lends itself to an occupancy of four people per unit. That is not just an arbitrary number.

Mr. Lopata: That is Housing Code that Joe is talking about.

Mr. Charma: That is something to think about.

Ms. McDowell: I may be opening up another can of worms, but when there was discussion about the place next to Bing's and units and occupants. There was a discussion about decreasing the size of the building. So, if the building were decreased, would you have what you would consider a reasonable amount of square footage for four units as opposed to six?

Mr. Lang: The reason the building is the size it is, is it is the function of the use on the first floor. The present use on the first floor is 5,000 approximately and that is the space that Formal Affairs needs to continue to conduct business in that building. We are taking the

existing 5,000 feet and we are building a new building with the same footprint to allow his business to continue. We can make the building 1,000 square feet in footprint, but would it make sense to tear down a 5,000 square foot building and put up a 2,000 square foot building? We could do that from a numbers perspective and just make the building smaller. It is downtown Newark. It fits on the parcel. It is the existing kind of footprint that is there. It doesn't make a lot of sense to me to say, okay, let's make it smaller and chase off a nice retailer that we are going to put some place else. The size of the space is a function of the tenant that you can get. So, if you have a 5,000 foot space, it might be more attractive to Formal Affairs and maybe one or two more people down the road vs. having a 3,000 foot space and you can't get a (inaudible). The answer is, yes, we can make the building smaller, we can come up with any numbers you want, but then, it gets back into making this project work from a bank perspective. That is why we started with 5,000 and why we ended up with 5,000.

Mr. Bowman: Let's open this up to the public. If there is anyone from the public that wishes to comment, please come to the microphone and state your name and address.

Mrs. Jean White: 103 Radcliffe Drive. I was surprised that since you were trying to mimic the old Formal Affairs Building that the signing is yellow rather than white. It doesn't matter. You can make it anything you want.

The footprint is the same size (5,000 square feet) as the current building but it is set back six feet or about that. So, does that mean the whole building is six feet further back at the back end? It seemed to me that your original plan, the building went much further back – the plan that included the parking deck.

Mr. Lopata: I don't think so.

Mrs. White: It was exactly the same size?

Mr. Lopata: I don't know if it was exactly. I don't think it went much further back.

Mr. Charma: (Inaudible).

Mrs. White: There was some talk about stucco even in the Planning and Development Department report, but as I look at the plan I at least was happy to see that it looks like the whole side is siding all the way back. Correct? And on the other side next to the Learning Station Building, is that siding or is that siding or is that stucco on both sides? I think that was the original plan that talked about stucco, so I am glad to see that it's the siding and also to hear that it is most likely the cement fiber siding and not vinyl siding.

The alley that is now not going to go out into Main Street or back that is between it and the Learning Station building, is that still going to be accessed by automobiles, not to get out or to get in but on that side?

Mr. Charma: (Inaudible)

So, it is not wide enough. When I looked at the forward elevations, to me the building looks wider than what is there now. Is that correct or not?

Mr. Charma: (Inaudible)

Mrs. White: If it is wider but it goes back the same distance but six feet more, then why isn't the footprint larger than the current 5,000 square foot footprint?

Mr. Charma: It is wider. The total square footage is 5,079 square feet.

Mr. Lang: But, the alleyway between the two buildings, we need to maintain that alleyway because there are doors coming out of the building for service, and potentially the retailers on the first floor of Formal Affairs still need to take deliveries down that alleyway. We are going to discourage through pedestrian access there. It is more of a service alley. It used to be 10 feet wide, now it is six feet wide. So, the building is approximately four feet wider.

Mrs. White: If the building is four feet wider. . .

Mr. Lopata: Jean, is there a question there?

Mrs. White: I am trying to figure if the square footage is exactly the same for the footprint. So, it is four feet wider width so it must be not as deep to get the same square footage. That is my question.

Mr. Locke: Right now the existing square footage of the building is 5,079 feet.

Mr. Lopata: Which it says on the plan.

Mr. Locke: And, I use the first, second and third of the existing building. I am not going to have the right to do that anymore, and that's why we need the 5,000 square feet.

Mr. Lopata: It is still a 5,000 square foot footprint.

Mrs. White: So, the alleyway will be used for hand deliveries but not automobile deliveries is the answer to that. I was wondering about fire access. I know the building is going to be sprinklered but then the only access is from the back and the front which is rather narrow so that qualifies for fire access.

Mr. Bowman: It is the same situation we have today. You can't get a fire truck in that alleyway. I'll guarantee it. Not comfortably. And the Fire Marshall wouldn't approve it if it weren't accessible.

Mrs. White: Finally, I wanted to say that I support in some manner decreasing the density whether it is density of units or density of occupants. It seems there must be some way to do it even if it is a lesser thing such as limiting to three since there are three bedrooms. I guess what I feel is we are getting precedent after precedent. We have the Washington House condominium and that is now being used for precedent for other things. We put another building in with a similar density then it is just going to be a cascading affect up and down the street. So, I would like the Planning Commission to look at that issue.

Ms. Pamela Bobbs: 113 E. Main Street. Thank you very much for the lovely architecture and thank you for the green. Just a word of caution, if you are planning to do any kind of conversions think about parking onsite because people are not going to buy condos if they can't park where they live. But, you did a great job on this one.

Mr. Bowman: We will bring it back to the Commission for any final questions or comments.

Mr. Osborne: This is a question for Roy more than anyone. I wasn't on the Commission when the Washington House was approved and we are talking about similar unit densities per acre between this proposed plan and what is at Washington House. Was there any tenancy limit imposed on the Washington House?

Mr. Lopata: First of all, the Planning and Development Department recommended against the Washington House as proposed. We thought it was many more units per acre than we should have permitted. To a certain extent, in line with the comment that Mrs. White made, we felt it was just too large a building. But, secondly, and more importantly, there are extremely strict tenancy restrictions; if the units are rented, they are limited to two tenants per unit. We put those restrictions in, and there were others to try to ensure that it stayed a condominium. It is a different case here. That was our biggest concern. How were we going to be assured that 54 units as proposed at the time were not going to be simply rental housing? The best that we could come up with in negotiations with the developer was the limitation to two tenants. And, it has worked by and large. Of course, then they built a very expensive building which we couldn't control from a planning standpoint.

Anyway, from my standpoint, I was wrong. I didn't think condos downtown Newark, at least at that point in time, were going to sell very well at all. They have done, considering the market, very well. I would like to see more of that downtown now because we really need to begin to look at Newark as a destination city for young marrieds, young professionals.

One of the types of housing we don't have in Newark is for graduate students and for graduates of the University of Delaware who decide to stay in this community. We have a very big gap for first time home buyers. We have programs to encourage that, but we certainly have very little housing in the downtown area. And if you go to other college towns like Austin, Madison, Wisconsin or Chapel Hill and places I have visited, they have a

lot of that type of housing and we have very little of it. I don't think the Washington House is meeting that need either because, again, that is the higher end. So, I look at some of these smaller projects. That is why I am making these condo comments. I don't think I am in dreamland. Our recommendation was predicated on trying to come up with a little mechanism that was beginning to set a tone. If you are going to come in with a project for a high density, then mimic the Washington House.

Mr. Osborne: The Department didn't go as far as recommending a limit on the tenancy.

Mr. Lopata: Typically four is what we would recommend.

Mr. Bowman: That is what we have done on other properties.

Mr. Osborne: That is not how I read it.

Mr. Lopata: I recommended they reduce it to four units if it is a rental, in this particular case. I didn't recommend that. You are right, Rob.

Mr. Begleiter: You gave us options.

Mr. Osborne: You gave us options, right.

Mr. Lopata: As I said, I am trying to explain why. There are two issues here. This is a 100% parking waiver, which we have approved before, but more importantly, the second issue, the density is so much higher than for our other recent projects.

Mr. Osborne: I don't think I have a concern about the density.

Mr. Lopata: But, that is the reason. When I looked at this plan I said, how can we justify 35 units per acre? Those are the things I look at.

Mr. Osborne: Because it has been done before in that area namely Washington House.

Mr. Lopata: And that's condos.

Mr. Osborne: I don't see the difference whether it is apartments or condos.

Mr. Lopata: That is a big difference in terms of its impact on the community.

Mr. Osborne: It is Main Street. I think Main Street lends itself to the density. I don't think a neighborhood lends itself to the density.

Mr. Lopata: That is why the density is up to 20 or 30. I don't disagree with that, but my point is at this density we felt that we ought to go another route. It is a relatively small project. It is almost immaterial.

Mr. Osborne: I don't think I have a problem with the density.

Mr. Lopata: I understand that. We can agree to disagree. I had a problem with how could I make a recommendation in good conscience to you that flew in the face of what we have done before. I wanted to be consistent with what we have proposed before.

Mr. Osborne: We've done it before.

Mr. Lopata: No, we haven't.

Mr. Osborne: That is condos.

Mr. Lopata: But, you are asking how we have done it before. We haven't done it before. You may not agree with my logic but it is different.

Mr. Osborne: You are throwing in the technicality of a condo. I don't see it as different.

Ms. Brown: There is a huge difference between a condo because those condos have to be basically owner occupied or two people renting them. So, you have a whole different mindset. When you own a hunk of property and you rent a place, it is totally different.

Mr. Osborne: I think the marketability of apartments in here is better than a condo. So, for me the higher density as apartments is not a concern to me.

Mr. Bowman: Well, that is none that we are going to have to agree to disagree on. If there are any other comments, fine, but given the lateness of the hour unless there is something new, let's call for the question.

Mr. Begleiter: Mr. Chairman, I have a question for Jeff. Somebody talked about retailers taking deliveries in the alley. They are not going to take deliveries in the back where the truck can pull right up to the back of the building? What deliveries are you going to take in the alley?

Mr. Lang: There is a door to DP Dough here. There is a door to the Learning Station. There is a door here and here. So, a truck will pull up and you will walk down the alley. You are not going to drive down the alley. There is also the possibility of delivering this way through the alley. So, you can pull in here, come down the alleyway or pull here and come down the alleyway. So, this building is not butted right up next to this building.

Mr. Osborne: As I remember, there is a loading dock at the back of 123 E. Main Street.

Mr. Begleiter: I would think that deliveries would be taken in the back. One of the problems we have and every city has is trucks pull up on the street. They don't have to worry about putting quarters in the meter. They just park illegally and make deliveries. When they have an option of doing it in a way that isn't illegal, it would be awfully nice if they did that. I realize this isn't the only business involved in that way.

Mr. Lang: We encourage DP Dough, the Learning Station to take their deliveries in the back, as does Chris. What happens now is they will drive through here and pull out.

Mr. Begleiter: So, that won't happen anymore.

Mr. Lang: This piece of property that is directly in front the proposed building is not part of the parcel associated with the density associated with those calculations. This parcel is actually owned by this property – 123 E. Main. So, if you actually took this piece of property and added it to this, your density is going to be reduced. I am not going to say greatly reduced, but I would suggest that it be greatly reduced somewhere into the mid 20s instead of the mid 30s because this parcel is probably as much as 15% or 20% of the size of this site. We really lose in some of the discussion about density. One of the things this project gets penalized for is because it is on such a small parcel, when we were incorporating this project into a bigger project, we had a similar building back here but smaller. We talked about doing a parking garage. Densities associated with this building got lost in that whole thing because we had a much bigger piece of property. I incorporated this parcel and this little piece of parcel and said okay this all one parcel, your density would be down around 19 because we are dealing with another piece of property about a quarter of an acre. Just adding this little parcel right here, if you just took it back to here, I'm sure our density . . .

Mr. Lopata: Jeff, I think we get the point.

Mr. Begleiter: Who owns that little strip?

Mr. Lang: This strip is owned by this property.

Mr. Begleiter: So, if you decided to buy the adjacent property, the little blue house in this drawing, you could build a house right up on the boundary and destroy your nice little walkway.

Mr. Lang: No, this property is actually owned by this property but it is an easement so you can't utilize it for any buildings. We could have arbitrarily said let's include this in this parcel to reduce the density.

Mr. Begleiter: If you had a choice of six units at three each for a total number of rentals of 18 or four units at four each, which you argued very strongly and eloquently against earlier for a total number of rentals of sixteen, which of those two choices would the developer prefer?

Mr. Lang: I would choose ten units at two.

Ms. Brown: That wasn't a choice.

Mr. Begleiter: A maximum number of rentals -- it has nothing to do with condos it's all about rentals.

Mr. Osborne: It looks like on the bay windows on the middle there is no mullions. Is that just an illusion or is that accurate? There are three windows on the bay windows and it looks like the double hung in the middle does not have any mullions. My personal taste is, I think mullions are attractive.

Mr. Hoffman: We haven't detailed that.

Mr. Osborne: Just a general comment for the Planning and Development Department following on my comments earlier, Roy, about the attractiveness of the garden in between the gray house and proposed project. I don't see a lot of that on Main Street. I hadn't really started to think about it a lot until I saw this plan and I think it is an attractive element rather than the whole Main Street being blacktopped or concrete. The next time we update the Comprehensive Plan, it is something to think about.

MOTION BY DRESSEL, SECONDED BY BROWN THAT THE PLANNING COMMISSION TAKES THE FOLLOWING ACTIONS:

- A. APPROVES THE REQUESTED BB ZONING DISTRICT 12 SPACE PARKING WAIVER, AS SHOWN ON THE LANDMARK ENGINEERING, INC. PLAN, DATED APRIL 29, 2009, WITH THE CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT;
- B. RECOMMENDS THAT CITY COUNCIL APPROVE THE 129 E. MAIN STREET MAJOR SUBDIVISION, AS SHOWN ON THE LANDMARK ENGINEERING, INC. PLAN, DATED APRIL 29, 2009, WITH THE CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT, AND WITH THE ADDED CONDITION THAT THE APPLICANT VOLUNTARILY AGREE TO DEED RESTRICT THE PROPERTY TO LIMIT THE MAXIMUM NUMBER OF TENANTS TO 18 UNRELATED INDIVIDUALS,
- C. RECOMMENDS THAT CITY COUNCIL APPROVE THE 129 E. MAIN STREET SPECIAL USE PERMIT FOR APARTMENTS, AS SHOWN ON THE LANDMARK ENGINEERING, INC. PLAN, DATED APRIL 29, 2009.

VOTE:6-1

AYE: BEGLEITER, BOWMAN, BROWN, DRESSEL, McDOWELL, SHEEDY
NAY: OSBORNE

MOTION PASSED

There being no further business, the Planning Commission meeting adjourned at 10:05

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission

